

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 21, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary
Jill Shelley, Kansas Legislative Research Department
Cody Gorges, Kansas Legislative Research Department

Conferees appearing before the committee:

Fred Lucky, Kansas Hospital Assn.
Jarrod Forbes, United Health Care
Joe Thesing, National Assn. Of Mutual Ins. Cos.
Bob Tomlinson, KID
Bill Sneed, State Farm Insurance
Larry Magill, KAIA
Rey Becker, PCI
Lee Wright, Farmers Insurance (written only)
Brad Smoot, BCBS (written only)
David A. Hanson, Kansas Insurance Associations (written only)
Rick Wilborn, Farmers Alliance Mutual Ins. Co. (written only)

Others attending:

See attached list.

The Chair called the meeting to order and resumed the hearing on **SB 563 - concerning health insurance; pertaining to utilization review.**

Ms. Calderwood gave an overview of the bill stating it would create an admission standard, essentially a next day standard. It would provide that if a patient was unstable or uncommunicative, they could not have been deemed present to that health care facility until that patient was able to provide their insurance information and the health care facility was able to inquire about their insurance coverage.

Fred Lucky, Kansas Hospital Association, testified in support of SB 563. He said this legislation would prohibit a utilization review organization from requiring notification of admission prior to the next business day after a patient presents to a health care facility. Mr. Lucky said it is difficult to see what potential benefit is derived by requiring a 24-clock-hour admission notification policy at all, much less any benefit that outweighs the immediate and substantial burden the protocol will impose on both urban and rural hospitals and the patients they serve. (Attachment 1)

Testifying in opposition was Jarrod Forbes, United Health Care. Mr. Forbes highlighted written testimony from James S. Watson, Vice President, State Affairs, UnitedHealth Group. Mr. Forbes said UnitedHealthcare is currently conducting a pilot program, with 200 hospitals around the country – including Kansas hospitals – to obtain notification from those facilities within 24 hours after a UnitedHealthcare customer is admitted. He said the purpose of the pilot is to identify the operational issues, electronic submission issues and unique weekend holiday issues associated with each of six notification transmission channels. Mr. Forbes noted that UnitedHealthcare respects the concerns of the Kansas Hospital Association; however, we believe that the data driven processes being studied in the pilot program will get us to our mutual goal in a collaborative way. He said unfortunately, the pilot has just begun to produce the needed data for the pilot hospitals and UnitedHealthcare to make improvements to the process. He said this bill at this time is premature in that it attempts to address problems that both UnitedHealthcare and the hospital industry are working hard to ensure

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MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 21, 2008 in Room 136-N of the Capitol.

do not occur when the notification program is operational. (Attachment 2)

The Chair closed the hearing on SB 563.

Hearing on:

SB 560 - an act establishing the property/casualty flex-rating regulatory improvement act; pertaining to personal lines insurance written on risks in this state by any insurer authorized to do business in this state

SB 274 - concerning insurance; enacting the property/casualty modernization act

Melissa Calderwood gave an overview of SB 560 and SB 274. Ms. Calderwood stated there was an interim committee that looked at both of these bills. She said there was a recommendation that the task force favorably support the NCOIL flex-rating regulatory model act which you see today as SB 560 and the task force noted it did consider SB 274 and that issues regarding prior approval and competitive rating would require further consideration by the legislature.

SB 274 would enact the property/casualty modernization act and amend statutes governing rate and form filings. The act separates property/casualty markets into two sections, competitive - which is the new section 3 of the bill - and non-competitive into new section 4 and, separately, large risk. The Insurance Commissioner is given the ability to monitor the competitive nature of the market and would be responsible for determining if a reasonable degree of competition exists or does not exist in that market. There is a provision regarding rate disapproval that is also in SB 560.

In this act, it establishes that the rate could not be excessive, inadequate, or discriminatory. The act would establish filing requirements for these lines of insurance and uses filed would be requirement for the competitive market with the Insurance Company filing the rate no later than 30 days after the rate has been in use.

Large risks are addressed in Section 8 of the bill. It would establish for large commercial risks, that they are no-file and not subject to the use and file requirements for the competitive and non-competitive personal lines and small commercial risks. There are the procedures for hearings and actions the Insurance Commissioner may take if there are violations of the act and the associated penalty. The Commissioner is given authority to adopt rules and regulations to administer the act. There are a few minor amendments to current law to conform to the act.

The second bill, SB 560, was requested this year for introduction by State Farm Insurance Companies. It would enact another model act, the property and casualty flex-rating regulatory improvement act. This act would pertain to personal lines insurance. Rate filings made by an insurer under this act would provide for an overall statewide rate increase or decrease of no more than 12% in the aggregate statewide for all coverages. No more than one rate filing may be made by an insurer pursuant to the process established in the bill unless there has been a combination of the filing. There is a 12% limitation that would not apply on an individual insured basis. There was a fiscal note and both of those could be implemented by the Insurance Department within its current budget.

Joe Thesing, National Association of Mutual Insurance Companies (NAMIC), testified in support of SB 560. Mr. Thesing stated NAMIC is a strong proponent of a reformed system of state regulation of insurance through the passage of regulatory modernization laws such as the Property/Casualty Flex-Rating Regulatory Improvement Act. He continued that NAMIC is also a strong proponent of reformed market conduct and financial solvency regulation to protect the interests of consumers and policyholders. He said his company's ultimate goal is to achieve a regulatory system that befits a mature industry operating in a highly competitive marketplace. He said SB 560 is the bi-product of a unanimous recommendation made last year by Kansas Insurance Department Fee Modernization and Rating Laws Task Force. He said the task force was established to study personal lines regulatory modernization and other topics. He noted that SB 560 would adopt the NCOIL Flex-Rating Regulatory Improvement Model Act. He said enactment of SB 560 will benefit consumers

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by encouraging more insurers to enter the market, thus enhancing competition. He continued that passage of this bill will send a strong message to congress that states can improve and modernize the state system of insurance regulation. He said passage of SB 560 is the next logical step in the process toward ensuring that Kansas insurance markets remain competitive. (Attachment 3)

Bob Tomlinson, Assistant Commissioner of Insurance, testified that SB 560 was written to create some degree of flexibility in rating regulation without eliminating it altogether. He said this bill would allow rates for personal lines insurance to be adjusted by 12% without any filing with the Kansas Insurance Department. He continued that though this procedure has only been adopted by very few states, it has been regarded by the industry as an innovative compromise that would increase speed to market. He said the Insurance Department agrees with this assertion. He said this appears to be an appropriate time for this approach because we have a healthy market and competition should keep rates reasonable. He said for this reason, the Kansas Insurance Department has proposed an amendment that constricts the 12% band in two ways. First, he said it lowers the overall rating band to 7%. This number was determined by assessing the median Kansas homeowner insurance premium, and determining the monetary effect that an average Kansas insurance consumer could absorb, he said. He noted that the second part of the amendment recognized that the 12% band in the original bill is actually an average of the changes in rates for the consumers across a certain product line. He said the rate increases for any given consumer within the product line could substantially increase as long as the mean is within the 12% band. He said for this reason, the department is proposing a 25% cap on individual policies within the rate increase.

With regard to SB 274, Mr. Tomlinson testified in opposition, stating that one of the primary functions of the Kansas Insurance Department and insurance regulators around the nation has been to regulate rates, especially rate increases. SB 274 eliminates rate reviewing procedures of the insurance department unless the Commissioner has determined that a non-competitive market exists. A non-competitive market is usually the primary catalyst for a company to want to raise its rates, he said. He noted that determining when a non-competitive market exists is difficult to do, and unfortunately non-competitive markets are only discovered after rates have been raised. He said the rating system provided for under SB 274 would leave the Insurance Department and Kansas consumers helpless to rate increases. (Attachment 4)

Bill Sneed, Legislative Counsel for The State Farm Insurance Companies, testified in support of both SB 560 and SB 274. Mr. Sneed said State Farm strongly advocates competitive rating laws and supports these bills which both implement the National Council of Insurance Legislators (NCOIL) insurance modernization model laws. Mr. Sneed said State Farm believes that it is to the benefit of the consumer to create a highly competitive insurance market placing maximum reliance on competitive forces to assure reasonable rates and quality service. Under SB 274, an insurer would be able to develop rates, start using them, and then file the rates with the Insurance Department for personal lines. SB 560 does the same thing, but only if the overall increase or decrease is less than 12%. Mr. Sneed noted that it is important to note that both bills still allow for the Kansas Insurance Department to retain general oversight over the rate regulation. The Insurance Department has a multitude of tools in order to make sure that the marketplace is working fairly and with no discrimination, he said (Attachment 5)

Larry Magill, Kansas Association of Insurance Agents, testified in support of SB 560. Mr. Magill said modernization of Kansas' rating laws has been something we have support for some time when we modernized commercial insurance rate regulation. We have a healthy, competitive insurance market in Kansas for all the major lines of insurance, including personal lines and a competitive market will self-regulate prices. He noted that SB 560 is a compromise between complete rate deregulation and the status quo. It provides a flex-rating approach that allows insurers to change their rates once per year either up or down 12%, he said. (Attachment 6)

Rey Becker, Property Casualty Insurers Association of America, testified in support of SB 560. He stated the nation's insurance regulatory trend, which has been driven in part by state legislators, is aimed toward greater rate modernization. The National Conference of Insurance legislators and American Legislative Exchange Council, both comprising insurance lawmakers throughout the country, advocate open competition. Modernization of insurance rates is a key element to preserving state regulation of insurance, and state legislators can play a key role in making sure that modernization is implemented quickly and efficiently. He

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said PCI remains committed to working with legislators and regulators to enhance and improve the state regulatory system to foster a healthy and competitive insurance marketplace. (Attachment 7)

Lee Wright, Farmers Insurance Group, presented written testimony only. (Attachment 8)

Brad Smoot, Blue Cross Blue Shield of Kansas, presented written testimony only. (Attachment 9)

David A. Hanson, Kansas Insurance Associations, presented written testimony only. (Attachment 10)

Rick E. Wilborn, Farmers Alliance, presented written testimony only. (Attachment 11)

The Chair said the committee would meet Friday, February 23, from 9:30 a.m. to 10 a.m. to take final action on the following:

SB 498 - concerning insurance; relating to the amount of certain penalties

SB 443 - concerning the long-term care partnership program

SB 563 - concerning health insurance; pertaining to utilization review

The Chair said the Committee will meet Monday, February 25, to continue hearing SB 601 and SB 624 and will meet Tuesday February 26 to hear SB 629 and finish SB 560.

The meeting adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 2-21-08

NAME	REPRESENTING
Ron Seeban	Gen Lan Firm / HCA
Dick Cook	KS Ins. Dept.
Chad Austin	KHA
Lee Wright	Farmers Ins
LARRY MAGILL	KAIA
KERRI SPIELMAN	ILAIA
Alex Kotovantz	P. I. A.
Bill Sneed	State Farm
Katali Burton-Wheeler	State Farm
Bob Tomlinson	KID
John Neetz	KID
Junie Jack	federica Consulting
Effie Swanson	Sen P. Schmidt
Fred Lueder	KHA
John	VHG
Joe Thesing	NAMIC
Dave Hanson	PCI / Ks Assn Pvc Cos
Ray Becker	PCI
Brad Smoot	AIA



Thomas L. Bell
President

February 18, 2008

TO: Senate Financial Institutions and Insurance Committee

FROM: Fred Lucky
Senior Vice President

RE: SB 563 – Notification of Admission

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of Senate Bill 563. This legislation would prohibit a utilization review organization from requiring notification of admission prior to the next business day after a patient presents to a health care facility.

Senate Bill 563 places in statute the industry standard that health insurance carriers will accept inpatient admission notification by the end of the next business day. Requiring hospitals to provide admission notification any sooner, such as within 24 clock hours after actual admission regardless of weekends or holidays, would require hospitals to re-engineer their admissions process, add staff and incur substantial additional costs.

The Kansas Hospital Association has surveyed its members on whether a 24 clock hour admission notification policy would impact their facility. None of those hospitals responding to the survey currently staff in a manner that would allow them to comply with this type of policy, and the vast majority of the members responding indicated that compliance would have a significant negative impact on their operations. Compliance would require the addition of trained staff on weekends and holidays, with skill levels in coding, case management and social work in order to satisfy such notification requirements and to be able to deal with the case management concerns arising from utilization review inquiries that admission notification presumably stimulates.

Hospitals, out of cost constraint necessity, maintain only a skeleton administrative team on weekends and holidays. Therefore, hospitals would not have much of the information requested within the time frame demanded for notification, such as ICD-9 codes or physician tax ID numbers. Extra costs would also have to be incurred by hospitals, in order to hire and train additional staff, and then employ them at higher pay rates for weekend and holiday duty.

The administrative burden necessitated by compliance with a 24 clock hour admission notification policy would unnecessarily contribute to increasing health care costs. The threat of reimbursement cuts for failure or inability to comply exacerbates that problem. Patients are ultimately impacted by increasing cost pressure on insurance premiums. Patients may also find their access to care

Kansas Hospital Association

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*FI&I Committee
February 21, 2008
Attachment 1*

restricted if individual hospitals determine they cannot accept patients covered by this type of policy because of an onerous admission protocol. In turn, patients may then find that they will need to seek care out of network, at a significantly higher out-of-pocket cost burden.

It is difficult to see what potential benefit is derived by requiring a 24 clock hour admission notification policy at all – much less, any benefit that outweighs the immediate and substantial burden the protocol will impose on both urban and rural hospitals and the patients they serve. We respectfully request that the Senate Financial Institutions and Insurance Committee take action on SB 563 to place in statute the industry standard of next business day for admission notification policies.

Thank you for your consideration of our comments.



UnitedHealth Group

James S. Watson, Vice President, State Affairs
8101 "O" Street
Lincoln, Nebraska 68510
Tel (402) 327-2446 Fax (402) 327-2453

Testimony in Opposition to SB 563
Financial Institutions and Insurance Committee
Monday, February 18, 2008

Senate Bill 563 seeks to prohibit a utilization review organization from requiring notification of admission to a health care facility prior to the next business day. UnitedHealth Group respectfully offers the following testimony in opposition to SB 563.

As the Committee is aware, UnitedHealthcare is currently conducting a pilot program, with 200 hospitals around the country – including Kansas hospitals – to obtain notification from those facilities within 24 hours after a UnitedHealthcare customer is admitted...seven days a week. The purpose of the pilot is to identify the operational issues, electronic submission issues and unique weekend holiday issues associated with each of our six notification transmission channels.

The Committee might also be interested to know that, contemporaneously with the hospital/facility notification program, we have also reduced the list of inpatient services requiring advance notification by physicians.

Why is notification so important? United's care management model is evolving to incorporate "best national practices" on a fully integrated basis. This includes focusing on outpatient and inpatient care, chronic disease and case management, coordination of care and the application of evidenced based medicine with systematic feedback to physicians and providers. Incidentally, this care management model does not impose a length of stay on providers.

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Attachment 2*

Specifically, notification facilitates UnitedHealthcare's ability to provide clinical support and education, such as:

- 1) Pre-op education for the patient and ensure adherence to nationally recognized guidelines in order to maximize quality and cost efficiency;
- 2) Facilitate post-op discharge planning to optimize clinical outcomes;
- 3) Refer patients to Centers of Excellence (e.g. congenital heart disease);
- 4) Refer patients to appropriate in-network physicians or other health care professionals to maximize customers benefits;
- 5) Refer patients to our case management and disease management programs

The "ultimate" goal is timely Physician and Consumer Engagement.

Is the new notification requirement burdensome? There are several ways a hospital facility can provide notification: 1) Unitedhealthcareonline.com 2) EDI (electronic 278 claim) transaction 3) telephone 4) VoiceCert 5) facsimile or facsimile of the hospital's UHC daily census logs 6) direct access by UHC to the hospital administrative system.

In closing, UnitedHealthcare respects the concerns of the Kansas Hospital Association, however we believe that the data driven processes being studied in our pilot program will get us to our mutual goal in a truly collaborative way.

Unfortunately, the pilot has just begun to produce the needed data for the pilot hospitals and UnitedHealthcare to make improvements to the process. Therefore, we respectfully suggest that this Bill at this time is premature, in that it attempts to address problems that both UnitedHealthcare and the hospital industry are working hard to ensure do not occur when the notification program is operational.

February 20, 2008

The Honorable Ruth Teichman
Chair, Senate Financial Institutions and Insurance Committee
Kansas State Capital
300 SW 10th Street
Topeka, KS 66612

Dear Chairwoman Teichman,

Thank you for this opportunity to provide PROPONENT testimony on Senate Bill 560, which establishes the *Property/Casualty Flex-Rating Regulatory Improvement Act*.

Founded in 1895, NAMIC is a full-service national trade association with more than 1,400 member companies that underwrite over 40 percent of the property/casualty insurance premium in the United States. In Kansas, 149 member companies, including 16 domiciled companies, underwrite property casualty business.

NAMIC is a strong proponent of a reformed system of state regulation of insurance through the passage of regulatory modernization laws such as the *Property/Casualty Flex-Rating Regulatory Improvement Act*. 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.

We believe the primary barrier to fundamental reform of the property/casualty industry is price regulation of insurance rates. This belief is the cornerstone of NAMIC's agenda for change in the states. Passage of rate modernization laws benefits consumers with respect to price and availability of insurance products. Insurance is an industry where less government control has been tested and found to be successful. 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, 18 states have enacted some form of regulatory modernization.

Senate Bill 560 is the bi-product of a unanimous recommendation made last year by Kansas Insurance Department Fee Modernization and Rating Laws Task Force. The task force was established to study personal lines regulatory modernization and other topics. SB 560 would adopt the NCOIL *Flex-Rating Regulatory Improvement Model Act*.

*FI&I Committee
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Attachment 3*

The NCOIL flex-rating model creates a 12 percent flex band for personal lines of insurance. The model was overwhelmingly adopted by NCOIL in 2003 and is viewed as an interim step toward rate regulation based on an open competition system.

Currently, eight states have flex-rating laws. Flex-rating allows insurers to increase or decrease a rate within the flex-band without approval from regulators. Regulators can still review rate filings but cannot reject an increase as excessive as long as the market remains competitive.

According to a recent report by the Insurance Information Institute, "Flex rating allows insurers to respond quickly to loss trends and other market conditions. Research suggests that in states with a flex rating system rates decline."

Enactment of Senate Bill 560 will benefit consumers by encouraging more insurers to enter the market, thus enhancing competition. Furthermore, passage of this bill will send a strong message to Congress that states can improve and modernize the state system of insurance regulation.

NAMIC commends this legislature for enacting commercial lines reforms in 2006. Passage of Senate Bill 560 is the next logical step in the process toward ensuring that Kansas insurance markets remain competitive.

NAMIC respectfully requests favorable approval of Senate Bill 560 by the Senate Financial Institutions and Insurance Committee.

Again, thank you for this opportunity to express NAMIC's views on this important issue. If you have questions or require further information, please do not hesitate to contact me at (614) 262-4798 or via e-mail at jthesing@namic.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Thesing". The signature is fluid and cursive, with a large initial "J" and "T".

Joe Thesing
Director-State Affairs



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SB 560 AND SB 274

SENATE FINANCIAL INSTITUTIONS AND INSURANCE
February 21, 2008

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before the Committee today. My name is Bob Tomlinson the Assistant Commissioner of Insurance for the State of Kansas and I am here to speak to Senate Bills 560 and 274. Currently, we are listed as a proponent to SB 560 under the amendments I will discuss later. However, we oppose SB 274 on the grounds that it would eliminate regulatory authority we currently hold over property and casualty (P&C) rates.

Current Procedure

First, let me give you a little perspective on where Kansas stands compared to other states regarding P&C rating law. The Kansas Insurance Department currently regulates the rates of personal lines insurance products on a "file and use" system. This allows insurance companies to use their new rates after filing them with the Kansas Insurance Department without specific approval. However, the Insurance Department does retain the right to deny the rate change on certain grounds as long as it is within 30 days of the filing.

When comparing this filing system with other states, Kansas falls in the plurality, while only a handful of states actually fall into the "flex rating" mechanism that is being proposed in SB 560.

SB 274

One of the primary functions of the Kansas Insurance Department and insurance regulators around the nation has been to regulate rates, especially rate increases. SB 274 eliminates rate reviewing procedures of the insurance department unless the Commissioner has determined that a non-competitive market exists. A non-competitive market is usually the primary catalyst for a company to want to raise its rates. However, determining when a non-competitive market exists is difficult to do, and unfortunately non-competitive markets are only discovered after rates have been raised. The rating system provided for under SB 274 would leave the Insurance Department and Kansas consumers helpless to rate increases.

*FI&I Committee
February 21, 2008
Attachment 4*

SB 560

SB 560 was written to create some degree of flexibility in rating regulation without eliminating it altogether. The bill would allow rates for personal lines insurance to be adjusted by 12% without any filing with the Kansas Insurance Department. Though this procedure has only been adopted by very few states it has been regarded by the industry as an innovative compromise that would increase speed to market. Frankly, we at the Insurance Department agree with this assertion. This appears to be an appropriate time for this approach because we have a healthy market and competition should keep rates reasonable.

For this reason the Kansas Insurance Department has proposed an amendment that constricts the 12% band in two ways. First, it lowers the overall rating band to 7%. This number was determined by assessing the median Kansas homeowner insurance premium, and determining the monetary effect that an average Kansas insurance consumer could absorb.

The second part of the amendment recognizes that the 12% band in the original bill is actually an average of the changes in rates for the consumers across a certain product line. So in actuality, the rate increases for any given consumer within the product line could substantially increase as long as the mean is within the 12% band. For this reason we are proposing a 25% cap on individual policies within the rate increase.

Our administration has made every effort to keep modernizing and streamlining our operations whenever possible. For example the Insurance Department will soon be requiring all filings to be done electronically with the System for Electronic Rate and Form Filing (SERFF). We have also made it a priority to adhere to the 30-day time frame in the Kansas "file and use" law. But ultimately our responsibility is to the consumers of Kansas who rely on us to maintain a quality insurance marketplace through limited, sound regulation.

Thank you for the opportunity to appear before you today. I would now stand for any questions.

Bob Tomlinson
Assistant Commissioner of Insurance

SENATE BILL No. 560

By Committee on Financial Institutions and Insurance

2-5

9 AN ACT establishing the property/casualty flex-rating regulatory im-
10 provement act; pertaining to personal lines insurance written on risks
11 in this state by any insurer authorized to do business in this state.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. Notwithstanding the requirements of K.S.A. 40-952 and
15 40-955, and amendments thereto, a filing made by an insurer under this
16 section that provides for an overall statewide rate increase or decrease of
17 no more than ~~12%~~ in the aggregate, for all coverages that are subject to
18 the filing may take effect the date it is filed. ~~The 12% limitation shall not~~
19 ~~apply on an individual insured basis.~~ No more than one rate filing may
20 be made by an insurer pursuant to the expedited process provided in this
21 section during any period of 12 consecutive months, unless the combi-
22 nation of such rate filing and all other rate filings made by such insurer
23 within the preceding period of 12 consecutive months does not result in
24 an overall statewide increase or decrease of more than ~~12%~~ in the aggre-
25 gate for all coverages that are subject to such filing.

26 Sec. 2. Any rate filing which falls outside the limitations specified in
27 section 1, and amendments thereto, shall be subject to K.S.A. 40-952 and
28 40-955, and amendments thereto, unless such filing is otherwise exempt
29 pursuant to another provision of Chapter 40 of the Kansas Statutes An-
30 notated and acts amendatory thereof and supplemental thereto.

31 Sec. 3. (a) Any filing submitted pursuant to section 1, and amend-
32 ments thereto, shall be deemed to comply with state law unless the com-
33 missioner determines that the filing is inadequate or unfairly discrimi-
34 natory. If the commissioner determines that the filing is inadequate or
35 unfairly discriminatory, the commissioner shall issue a written order spec-
36 ifying in detail:

37 (1) Each provision of Chapter 40 of the Kansas Statutes Annotated,
38 and acts amendatory thereof and supplemental thereto, the insurer has
39 violated;

40 (2) the reasons the filing is inadequate or unfairly discriminatory; and

41 (3) stating a reasonable future date on which the filing shall be con-
42 sidered no longer effective.

43 (b) If the commissioner issues an order pursuant to this section more

7%

, with a 25% cap
on individual insureds,

7%

1 than 30 days after the date on which the commissioner received the rate
2 filing, the effect of such order shall be prospective only and shall not
3 affect any contract issued or made before the effective date of such order.

4 Sec. 4. Within the limitation specified in section 1, and amendments
5 thereto, no rate increase may be implemented with regard to an individual
6 existing policy, unless such increase is applied at the time of a renewal or
7 conditional renewal of an existing policy and the insurer mails or delivers
8 to the named insured, at the address shown in the policy, a written notice
9 that clearly and conspicuously discloses its intention to change the rate,
10 at least 30 days in advance of the end of the insured's policy period. A
11 notice of renewal or conditional renewal that clearly and conspicuously
12 discloses the renewal premium applicable to the policy shall be deemed
13 to comply with this section.

14 Sec. 5. For purposes of this act:

15 (a) "Commissioner" means the commissioner of insurance.

16 (b) "Unfairly discriminatory" ~~means~~ a rate for a risk that is classified
17 in whole or in part on the basis of race, color, creed or national origin.

18 Sec. 6. Sections 1 through 6, and amendments thereto, shall be
19 known and may be cited as the property/casualty flex-rating regulatory
20 improvement act.

21 Sec. 7. This act shall take effect and be in force from and after its
22 publication in the statute book.

includes



Polsinelli

Shalton | Flanigan | Suelthaus PC

Memorandum

TO: THE HONORABLE RUTH TEICHMAN, CHAIR
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
THE STATE FARM INSURANCE COMPANIES

RE: S.B. 274 AND S.B. 560

DATE: FEBRUARY 21, 2008

Madam Chair, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the State Farm Insurance Companies. State Farm is the largest insurer of homes and automobiles in Kansas. State Farm insures one out of every three cars and one out of every four homes in the United States. We are pleased to stand in support of S.B. 274 and S.B. 560.

State Farm strongly advocates competitive rating laws and supports S.B. 274, and alternatively, S.B. 560, both of which implement the National Council of Insurance Legislators ("NCOIL") insurance modernization model laws.

During the 2005 legislative session, my client requested the introduction of H.B. 2184, which is the genesis of S.B. 274. We have been working with the Kansas Legislature, and in particular, the Kansas Insurance Department, in order to move forward on this vitally important piece of legislation. After the introduction of H.B. 2174, my client agreed to meet with the Insurance Department in an attempt to resolve their opposition to that particular piece of legislation. My client met on numerous occasions with the Insurance Department over the next 18 months (along with other industry members), but we were unable to come to an agreement on legislation that the Department withdraw its opposition to. Thus, during the 2007 legislative session, the property and casualty industry requested the introduction of S.B. 274. After taking testimony, the Chair of the Senate Financial Institutions and Insurance Committee recommended that the matter be studied during the interim, which, chaired by the Vice Chair of the Senate Financial Institutions and Insurance Committee, occurred during the summer and fall of 2007. The outcome of that task force was the recommendation, albeit not unanimous, for the introduction of the NCOIL flex rating bill. Thus, at the beginning of this legislative session, my client requested and your Committee granted the introduction of S.B. 560, which represents the NCOIL flex rating model law.

*FI&I Committee
February 21, 2008
Attachment 5*

555 S. Kansas Avenue, Suite 101
Topeka, Kansas 66603-3423
Telephone: (785) 233-1446
Fax: (785) 233-1939

My client believes that it is to the benefit of the consumer to create a highly competitive insurance market placing maximum reliance on competitive forces to assure reasonable rates and quality service. Under S.B. 274, an insurer would be able to develop rates, start using them, and then file the rates with the Insurance Department for personal lines. S.B. 560 does the same thing, but only if the overall increase or decrease is less than 12%.


My client believes the time is now to remove these antiquated barriers to free competition. Rate regulation increases uncertainties, and therefore increases the cost of capital for insurers, thus discouraging capital commitment and making ultimate rate levels higher. Rate regulation can undermine fairness by forcing better risks to subsidize worse risks. Further, the underwriting cycle is actually exacerbated by delaying unnecessary rate increases or decreases. Finally, the natural competitiveness of the insurance industry is dampened by rate regulation, thereby limiting consumer choice.

It is also important to note that both bills still allow for the Kansas Insurance Department to retain general oversight over rate regulation. The Insurance Department has a multitude of tools in order to make sure that the marketplace is working fairly and nondiscriminatorily, and thus benefitting the consumer.

Although we contend that S.B. 274 is the most appropriate fashion in which to approach rate modernization, we certainly understand that the task force, in an effort to compromise, supported the flex rating process found in S.B. 560. My client stands ready to work with this Committee on both bills in an effort to find the appropriate level of regulation for Kansas consumers.

Again, we appreciate the opportunity to present testimony and would be happy to answer questions.

Respectfully submitted,



William W. Sneed

WWS:kjb

Kansas Association of Insurance Agents



Testimony on Senate Bill 560
Before the Senate Financial Institutions & Insurance Committee
By Larry Magill
February 20, 2008

Thank you madam chair and members of the committee for the opportunity to appear today in support of Senate Bill 560. My name is Larry Magill and I represent the Kansas Association of Insurance Agents. We have approximately 425 member agencies across the state and another 100 branch offices that employ a total of approximately 2,500 people. Our members write roughly 70% of the business property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

Modernization of Kansas' rating laws has been something we have supported for some time when we modernized commercial insurance rate regulation. We have a healthy, competitive insurance market in Kansas for all the major lines of insurance including personal lines and a competitive market will self-regulate prices. SB 560 is actually a compromise between complete rate deregulation and the status quo. It provides a flex-rating approach that allows insurers to change their rates once per year either up or down 12%.

You have heard this many times, and will doubtless hear it many more times. But we see this as necessary to avoid federal regulation of insurance. A more open, competitive market that is allowed to easily adjust rates is a major step toward more efficient state regulation of insurance and that will stave off a federal solution.

We would be happy to answer questions or provide additional information.

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KANSAS ANALYSIS OF SENATE BILL 560

Kansas currently has a file-and-use insurance rate regulatory law for personal lines business, whereby rates must be filed 30 days before the proposed effective date. A file-and-use law with a prescribed waiting period is sometimes considered to be “non-competitive” in the sense that rates are still subject to review and possible disapproval after they have been put into use. This has been the case in Kansas, as administration of this law makes it more similar to a prior approval state. As such, companies are faced with an additional underwriting risk since they are concerned that rates may still be disapproved; they are hesitant to lower rates for fear that they will not be able to increase them when needed later.

Senate Bill 560 proposes that insurance companies be allowed to use personal lines rates on the date they are filed, as long as the overall statewide rate increase or decrease is within a 12 percent band. The present file-and-use law will continue to apply to all other rates that fall outside this limitation. Under this proposal, rate adjustments falling in this band would be primarily influenced by competitive forces that enable insurance rates to be consistent with underlying costs. Instead of permitting the state to intervene to achieve what it believes is a proper balance between adequate and excessive rates, insurers would be able to react much more quickly to changing loss trends and implement rate increases or decreases in a timely fashion, keeping the market more stable and strong. In other words, any political pressures are removed for rate changes up to 12 percent, ensuring greater price equity among insurance-buying consumers.

The proposed flex-rating law by no means implies that the regulators have given up complete oversight of insurance companies. There are other ways, such as licensing requirements, solvency regulation, market conduct surveillance and monitoring consumer complaints by which the state insurance department can devote more of its resources to ensure fair, nondiscriminatory markets.¹

The proposed 12 percent rating band serves as a threshold. With a flex-rating law, it is sometimes presumed that companies will seize the opportunity to implement large rate increases near the threshold, knowing that these rates can bypass regulatory review. This is clearly not the case, as insured drivers in states that went to greater rate competition saw only small rate increases and even decreases after implementation of flex-rating.

The following table sets forth leading carriers’ auto and homeowners rate changes implemented in states with flex-rating laws; these changes are quite a bit lower than the established maximum band

¹ Among its many duties, the Kansas Insurance Department (DOI) oversees insurer and producer activities to protect consumer interests, ensures that policies comply with state law, and resolves any disputes between consumers and insurers. Using financial statements regularly submitted by insurers, the DOI evaluates their accounting methods and procedures and conducts periodic examinations to ensure their financial soundness.

*FI&I Committee
 February 21, 2008
 Attachment 7
 February 15, 2008*

beyond which insurance department approval is required, demonstrating that insurers do not try to take advantage of a more competitive system with relatively high flex limits (Table 1).

Table 1		
Rate Activity of Major Insurers In States With Flex-Rating Laws		
State (Band)	Major Insurance Company	Action (line of business)
Kentucky (25%)	Kentucky Farm Bureau	+6.6% (auto) +10.0% (homeowners)
	State Farm	+6.7% (homeowners) +0.5% (auto) -5.3% (auto)
	USAA Group	-2.2% (auto)
Louisiana (10%)	Farmers	+6.8% (auto)
	State Farm	-2.1% (auto)
	Erie	+7% (auto)
Pennsylvania (10%)	Allstate	+2.5% in Philadelphia; +6.8% in rest of state (auto)
	State Farm	-2.2% (auto)
Texas (30%)*	USAA	-8.6% (auto)
* Texas has since converted to a file-and-use rating system, effective December 1, 2004.		
Sources: Kentucky: <i>The Courier-Journal (Louisville)</i> - June 22, 2003 and June 8, 2004 Louisiana: <i>The Baton Rouge Advocate</i> - January 23, 2004, March 4, 2004, and January 21, 2005 Pennsylvania: <i>Erie Times-News</i> - January 4, 2004 and <i>The Philadelphia Inquirer</i> - August 9, 2004 Texas: <i>San Antonio Express-News</i> - June 12, 2004		

In addition, following South Carolina's enactment of a 7-percent flex-rating law (eff. March 1999), six leading auto insurance companies implemented rate reductions (one as large as 10 percent) or no rate change at all. In a March 2004 letter, Dean Kruger, the former chief actuary at the insurance department, wrote, "(rates) dropped and this indicates that the competitive marketplace is the more effective in controlling rate levels." These sentiments were echoed by former Louisiana insurance commissioner, J. Robert Wooley, who claimed that policyholders benefited when his state converted to flex-rating, with a 10 percent band: "Insurers aren't as reluctant to reduce rates when business is good because they know they can also raise rates without incurring a political battle." After the change, State Farm Mutual Auto Ins. Co. policyholders received an average \$20 rate reduction, or an overall cost savings of \$19.3 million.²

Going to a flex-rating law that allows rates to be used when filed would result in cost benefits for consumers. These lower rate increases or decreases would keep insurance rates lower than elsewhere. More competition-based rating systems clearly do not cost the insurance-buying public more money.

² *The Baton Rouge Advocate*, January 21, 2005

As an illustration, 10 states in the nation currently have a personal auto³ use-and-file or no-rating law that enables insurance companies to implement all of their rates immediately, without state approval.⁴ The group of states with the most competitive types of rate regulation is found to have lower personal auto insurance prices than the group of states with more restrictions. On average, insured drivers in states with the least amount of price controls pay 13.7 percent less for auto insurance than drivers in states with file-and-use laws (i.e., \$709 – use-and-file or no-file vs. \$822 – file-and-use)⁵ (Table 2). (Although S.B. 560 would not amend Kansas’ rating law to use-and-file, it is nevertheless important to note the cost benefits inherent in rating laws with the least amount of restrictions.)

Table 2	
Drivers in States with Fewer Price Controls Pay Lower Rates Than Drivers in States with More Price Controls	
Type of Rating Law	Average Auto Insurance Expenditure – 2005
File-and-Use	\$821.77
Use-and-File or No-File	\$709.34

States are classified according to their personal auto rating law in 2005.

File-and-Use: AR, CO, DC, FL, IN, KS, ME, MD, MI, MN, MT, NH, OH, OR, SD, TX, and VA
Use-and-File or No-File: AZ, ID, IL, IA, MO, OK, UT, VT, WI, and WY

Nebraska became a file-and-use in mid-2005 and is therefore not included in the above comparison.
Source: PCI, based on NAIC 2004/2005 Auto Insurance Database Report, 2007

Competitive sufficiency tests also show that Kansas’ personal lines insurance markets are competitively sound. More than 160 carriers, none which are dominant,⁶ now transact auto insurance business here. Furthermore, companies are able to enter and exit the state with little difficulty. However, despite the adequate number of insurers conducting business here, there has been a decline in personal auto companies over the years (Figure 2).⁷ An examination of why companies have been leaving is beyond the scope of this analysis, but one reason for their withdrawal may be frustration in having to operate under less than optimal rate regulatory conditions.

³ The type of rating law varies according to the product line. Personal auto is fairly representative of the way rates are regulated in other lines, even though there are variations in some states with respect to auto and homeowners insurance, as well as commercial lines of business.

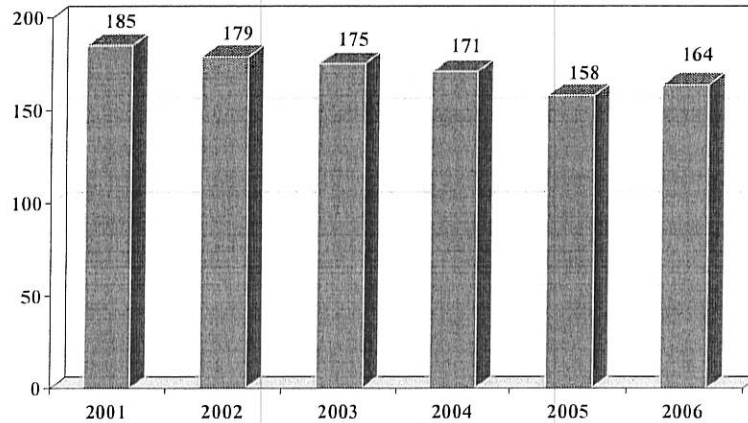
⁴ Illinois has no rating law at all, as it does not allow for disapproval of rates, but it is classified as a use-and-file state since companies must make informational filings.

⁵ NAIC, *2004/2005 Auto Insurance Database Report, 2007*; note that states with prior approval laws and other more restrictive laws have higher personal auto insurance rates than states with file-and-use, use-and-file or no-rating laws.

⁶ Based on the Herfindahl-Hirschman Index used by the U.S. Department of Justice in measuring competition, Kansas’ personal lines markets are considered “unconcentrated.”

⁷ NAIC database

Figure 1
Trend in Kansas
Personal Auto Insurers



A move to a flex-rating law would encourage more insurers to enter or return to the market, providing consumers of the state with a greater choice of companies. Although structural evidence of a healthy competitive environment in Kansas does exist, it could be made stronger by moving toward flex-rating as proposed in S.B. 560.

Kansas' current file and use rating law can be improved to work more effectively for the benefit of both consumers and insurers. A 12 percent flex band applicable to aggregate statewide increases or decreases would enable companies to respond in a timely fashion to changing loss experience and use rates immediately upon filing. In addition, more insurers would be encouraged to enter the state and offer policyholders a wider selection of coverages and products.

In conclusion, the nation's insurance regulatory trend, which has been driven in part by state legislators, is aimed toward greater rate modernization. The National Conference of Insurance Legislators and American Legislative Exchange Council, both comprising insurance lawmakers throughout the country, advocate open competition. Modernization of insurance rates is a key element to preserving state regulation of insurance, and state legislators can play a key role in making sure that modernization is implemented quickly and efficiently. The PCI remains committed to working with legislators and regulators to enhance and improve the state regulatory system to foster a healthy and competitive insurance marketplace.

Property Casualty Insurers Association of America (PCI) is a trade association consisting of more than 1,000 insurers of all sizes and types, and representing 40 percent of the total property/casualty insurance business and 49 percent of the total personal lines business in the nation. In Kansas, PCI members represent 48 percent of the personal lines markets.



FARMERS

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Bns 913-234-3902

February 21, 2008

To: Senator Ruth Teichman, Chairperson
Senate Financial Institutions and Insurance Committee

From: Lee Wright, Governmental Affairs Representative

Re: Written Testimony on Rate Modernization: SB 274 and SB 560

Thank you for this opportunity to provide written testimony in support of the Rate Modernization provisions found in SB 274 and SB 560.

We believe insurance markets best accomplish their risk management function when they allow insurers to charge rates that reflect the actual risks their policyholders incur and, conversely, allow insurers to discount products for consumers who mitigate against risks. When government regulation cripples the price mechanism, it will necessarily either suppress rates overall (or more likely) redistribute the burden of paying for risk. This cannot help but result in wealth redistribution from people who behave safely to those who take greater risks.

We recognize that some insurance regulation, such as the enforcement of laws against force and fraud in the insurance business for example, clearly is necessary. Other types of regulation, such as providing assurances insurance companies can actually pay their claims, should involve a mix of private and state efforts. We believe some regulations, such as the price charged for insurance products, should remain very largely in the hands of market forces and voluntary arrangements.

Respectfully,

Lee Wright
Governmental Affairs Representative
Farmers Insurance

*FI; I Committee
February 21, 2008
Attachment 8*

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Statement of Brad Smoot
American Insurance Association
Senate Financial Institutions and Insurance Committee
Regarding Senate Bill 274 and Senate Bill 560
Written Only

February 21, 2008

Madam Chair and Members of the Committee,

The American Insurance Association (AIA) is a national trade association representing some 450 member companies writing all lines of property and casualty insurance in Kansas, across the United States, and around the world. Today, AIA encourages the Kansas legislature to seize this opportunity to modernize and streamline how insurers' rates are regulated in this state. There are two instruments before this committee today - SB 274 and SB 560 - which achieve this goal albeit in different ways and to different extents.

To give a big picture context, the insurance industry is unique in its distinction as the only U.S. industry that is subjected to stringent government price controls. Such controls have virtually disappeared from the rest of our economy because history and experience have proven that market-based regulation leads to the widest array of products at the lowest prices. Government control over price and product can only lead to market dysfunction.

Rate regulation – which encompasses any regulatory ability to review and reject an insurance rate or price – interferes arbitrarily with natural economic forces of supply and demand that empower consumers, sends incorrect messages about mitigation and other loss control measures, and improperly places regulators in the position of exercising business judgment with respect to an insurer's customers. Indeed, a rigid regulatory review framework promotes product commoditization or standardization, leaving consumers with fewer choices and little incentive to understand and compare the various insurers that offer those products. This, in turn, denies consumers the ability to dictate the range of options that they enjoy for other products and services that are part of a more market-oriented regulatory structure.

The two bills before you today both provide a moderate approach to regulatory modernization.

- Typically, flex rating as contained in SB 560 blends two rate filing approaches. It allows periodic rate changes within applicable "flexibility bands" - specified as a maximum percentage increase or decrease - on a "file and use" basis. Rate changes that exceed these flexibility bands generally require the regulator's approval. This modest flexibility allows the market to operate more efficiently and to respond more appropriately to customers' needs. This system has been implemented most recently in South Carolina's private passenger auto market and was implemented in Louisiana in 2004.

- A file and use system as outlined in SB 274 requires that an insurer submit a filing to the regulator in advance of its implementation. The value and efficiency of this system, and any other, varies with the duration of the delay as well as with the manner in which it is administered

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by the regulator. In principle, it is generally regarded as more competitive than a flex system, since it does not include a prior approval component. This system has been successfully enacted in a number of states including Texas, Oklahoma, New Mexico and Colorado. Most recently, Louisiana replaced the flex band system with file and use following Hurricanes Katrina and Rita as a means to attract more insurers to the state and provide greater rate competition.

It should also be noted that commercial lines rates in Kansas have been successfully regulated under a file and use rating system for almost 10 years.

By shifting to a more competitive market-based system of rate regulation, property-casualty insurance will not be “deregulated.” Instead, resources will be redirected to those regulatory functions such as market conduct and financial solvency oversight that protect insurance consumers. Insurers have a direct stake in wanting other insurers to be financially sound, because it is the healthy insurance companies (and, by extension, their policyholders) that pay when an insurer becomes insolvent, and it is insurance companies that suffer the harm of tarnished reputations when bad actors are not swiftly punished.

The public benefits from a system that allows less restrictive, or more market-oriented, rating laws rely on competitive forces to ensure that insurance rates are consistent with underlying costs. Insurers can react quickly to changing loss trends and implement rate increases or decreases in a timely fashion, hence keeping the market stable and strong.

Indeed, the nation’s insurance regulatory trend is toward greater rate modernization and away from prior approval. Benefits resulting from some states’ move to greater rate competition may include: (1) an increased number of insurers, offering consumers more choice; and (2) the ability for insurers to better price their products, creating cost savings in the form of lower rate increases or even rate decreases. Less stringent rating laws by no means imply that regulators have given up oversight of insurance companies. There are other ways, such as licensing requirements, solvency regulation, market conduct surveillance and monitoring consumer complaints by which state insurance departments.

Positive changes for consumers have been observed in some states that have amended their rating laws. It is sometimes presumed that companies will quickly implement large rate increases under a system with greater price freedom, knowing that these rates will not need regulatory approval. Contrast this presumption with the following:

- Six leading auto insurance companies implemented rate reductions (one as large as 10 percent) or no rate change at all following South Carolina’s regulatory modernization. In a March 2004 letter, Dean Kruger, the former chief actuary at the insurance department, wrote, “the assumption used under the prior approval law was that requiring insurers to lower requested rate increases saves money for consumers. If such an assumption were accurate, then premiums should have increased during the implementation. In fact, they dropped and this indicates that the competitive marketplace is the more effective in controlling rate levels.”
- These sentiments were echoed by the former Louisiana insurance commissioner who claimed that policyholders benefited when his state converted to greater rate competition: “Insurers aren’t as reluctant to reduce rates when business is good because they know they can also raise rates without incurring a political battle.” After the change, State Farm Mutual Auto

Ins. Co. policyholders received an average \$20 rate reduction, or an overall cost savings of \$19.3 million.

- Even Massachusetts, arguably the most heavily regulated state in the country, has eased its regulation imposed on auto insurers beginning April 1, 2008. In anticipation of this date, companies have filed rate reductions for their policyholders, some up to 25 percent. Innovative product features in the form of additional discounts and new endorsements (e.g., accident forgiveness and sliding-scale deductibles) will also be implemented.

The opportunity for Kansas consumers to benefit from the current reapportionment of insurer capital, particularly in the property market, can not be overstated. Insurers are looking inland to manage their risks more effectively by reducing their coastal exposure. It is likely these business decisions will be based in part on the regulatory schemes in place from state to state. In order for Kansas to take advantage of this opportunity, it should carefully consider the impact of not keeping pace with those states that have recently implemented the more competitive file and use system provided in SB 274. The flexibility of this approach allows the market to operate more efficiently and to respond more appropriately to customers' needs.

If the Kansas legislature opts to support a flex rating approach as outlined in SB 560, AIA urges a broad band of at least 12% as in the bill. Movement to flex rating may indicate to possible market entrants that the regulatory environment is not so rigid as to disallow being able to make modest changes to respond to market conditions.

Finally, even with flex rating, insurance pricing is far more regulated than pricing in any other sector. AIA hopes that this will be considered just one in a series of steps toward regulatory modernization. Flex rating can be an excellent transition step for states that may want to consider ultimately moving to a competitive market.

KANSAS INSURANCE ASSOCIATIONS

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Kansas Association of
Property & Casualty Ins. Cos.

**Senate and Financial Institutions and Insurance Committee
Testimony on Senate Bill 560**

Member Companies:

Armed Forces Insurance
Exchange
Ft. Leavenworth

Bremen Farmers Mutual
Insurance Co.
Bremen

Columbia Insurance Group
Salina

Farm Bureau Mutual
Insurance Company
Manhattan

Farmers Alliance Mutual
Insurance Company
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Federated Rural Electric
Insurance Exchange
Lenexa

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co.
Marysville

Mutual Aid Association of the
Church of the Brethren
Abilene

Mutual Aid eXchange
Overland Park

Upland Mutual Insurance Co.
Chapman

February 21, 2008

Madam Chair and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies, whose members are domestic property and casualty insurance companies in Kansas.

Senate Bill 560 is from the NCOIL Model for modernizing rate regulation and we believe it is the most viable approach for implementation at this point. Our Association strongly supports state regulation of insurance and we are concerned with the growing advocacy of federal regulation, including pending proposals before Congress for optional federal charter. We believe Senate Bill 560 is a reasonable step toward modernization and effective state regulation and we would urge your favorable consideration of the Bill. Rick Wilborn of Farmers Alliance, one of our member companies, has also submitted written testimony that better explains these points.

Thank you for your consideration.

Respectfully,



DAVID A. HANSON

*FI & I Committee
February 21, 2008
Attachment 10*

FarmersAlliance

Insuring Rural America Since 1888

February 21, 2008

To: Honorable Ruth Teichman
From: Richard E. Wilborn
Re: Senate Bill 560

Thank you for this opportunity to express support for S.B. 560, which enacts and amends sections of the Kansas Code relating to the regulation of fire, property, and casualty insurance rate and rate filings.

My name is Rick Wilborn. I am Vice President of Government Affairs for the Farmers Alliance Mutual Insurance Companies. Farmers Alliance is a Kansas domestic property and casualty company that has been operating in and committed to the State of Kansas since 1888. We also write property and casualty insurance in eight other contiguous states.

Farmers Alliance Mutual Insurance strongly supports a "modernized" system of state insurance regulation. We believe that the rate and rate filing changes called for in S.B. 560 will be of great benefit to Kansas insurance markets and are long overdue. Furthermore, enactment of S.B. 560 would send a strong message to Congress that states can improve and modernize the state system of insurance regulation. S.B. 560 is based on the National Conference of Insurance Legislators (NCOIL) Property/Casualty Insurance Modernization Act, because it calls for the elimination of prior approval of rate and rate filing, within certain limits for personal lines of insurance.

Insurance is an industry where less price control has been tested and found to be successful. In 1969, the State of Illinois repealed prior approval and adopted a use-and-file system of rate regulation for personal lines of insurance, a system that is still in effect today. Illinois consumers enjoy stable rates, ranking in the middle of all states in average expenditures for insurance. Illinois has a low residual market indicating affordability and availability of insurance products.

Over the past several years, nine states have adopted some form of regulatory modernization. In 2003, modernizing legislation was adopted in Nebraska (commercial lines), New Hampshire (commercial lines), New Jersey (auto) and Louisiana (personal lines). In 2004, modernizing legislation was adopted in Massachusetts (commercial),

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Alliance Indemnity Company • Alliance Insurance Company, Inc.

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February 21, 2008

Page 2

Oklahoma (personal lines), Rhode Island (personal lines), South Carolina (homeowners) and South Dakota (personal and commercial lines). Currently, 18 states observe prior approval, 23 states observe file-and-use and 9 states observe use-and-file systems of rate regulation. (Attached is a compilation of rate filing requirements by state, provided by PCIAA.)

In 2007, under the purview of SCR 1603, the Kansas Insurance Department established the Kansas Insurance Department Fee Modernization and Rating Laws Task Force. The task force included legislators, consumer representatives, insurance company representatives and insurance regulators. The task force voted to adopt the NCOIL Model, such as S.B. 560.

Now is the time to take the first step and adopt S.B. 560. Over time, the progress can be measured and the next step of a use-and-file, similar to Illinois, should be implemented.

Thank you for your consideration.

Sincerely,

Richard E. Wilborn, CPCU
Vice President, Government Affairs

Attachments:



State Filing Laws Quick Reference

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Alabama	PA D 30 E 30	PA D 30 F&U some cases	Medical Malpractice PA Other Lines F&U	Med. Mal. PA Other Lines w/ 10% or more incr. PA Other Lines w/incr. < 10% F&U
Alaska	PA 30 D 30 E 30	Increase or Decrease < 10% when combined with any other filing(s) in preceding 12 months F&U 1 Increase or Decrease > 10% when combined with any other filing(s) in preceding 12 months F&U 30 E 15	PA 30 D 30 E 30 Surety, Specially- rated Inland Marine NF	All except Medical Malpractice Increase or Decrease < 10% when combined with any other filing(s) in preceding 12 months F&U 1 All except Medical Malpractice Increase or Decrease > 10% when combined with any other filing(s) in preceding 12 months F&U 30 E 15 Medical Malpractice PA D 15 E 15 Aircraft NF
Arizona	All except Inland Marine PA 30 D 30 E 15 Inland Marine NF 1	U&F 30 Inland Marine NF	All except Marine, Aircraft, Title PA 30 D 30 E 15 Aircraft, Marine, NF 1 Title F&U	All except Marine, Aircraft, Title U&F 30 Marine, Aircraft NF Title F&U 30 E 15
Arkansas	PA 30 D 30 E 30	F&U 20	PA 30 D 30 E 30 Exempt Lines NF 1	Prof. Liab. F&U 20 Employers Liab. F&U 30 Other Lines NF

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
California	Forms w/rate impact PA D 60	PA D 60 or 180	Forms w/rate impact PA D 60	Credit, Fin'l. Guar., Mort. Guaranty F&U
	Forms with no rate impact NF	Auto Class Plan PA A 90	Forms with no rate impact NF	Title F&U 30 ECP, Ocean Marine NF Other Lines PA D 60 or 180
Colorado	Auto F&U 31	F&U	Claims-made Liab., Credit, Commercial Auto with Personal Endorsement F&U 31	F&U
	Other Lines NF		Other Lines NF 1	
Connecticut	F&U	Auto Increase & Decrease ≤ 6% when combined with any other filing(s) in preceding 12 months F&U	Fidelity, Surety, Guaranty Bonds PA	Med. Mal. for some medical professions Increase > 7.5% PA 60
		Increase & Decrease > 6% when combined with any other filing(s) in preceding 12 months PA D 30 E 30 Other Lines F&U	Aircraft NF 1 Other Lines F&U	Increase < 7.5% F&U Any Decrease F&U Aircraft NF 1 Other Lines F&U
Delaware	F&U	F&U	F&U	F&U ECP NF 1
District of Columbia	PA 60	F&U 45	PA 60	F&U 45
Florida	PA D 30 E 15	Auto F&U 60 Or U&F 30	PA D 30 E 15	Aircraft, Inland Marine NF
		Other Lines F&U 90 Or U&F 30	Aircraft NF	Other Lines F&U 90 Or U&F 30
Georgia	PA D 90 E 90	Auto PA D 45 E 55	Most Lines PA D 90 E 90	Increase F&U 45
		Other Lines Increase F&U 45 Decrease F&U 1	Ocean Marine, Surety Bond, Specially Rate Inland Marine and Manuscript Forms NF	Decrease F&U 1 Aircraft NF 1
Hawaii	Auto PA 30	PA D 30 E 15	Auto PA 30	PA D 30 E 15
	Other Lines F&U 1		Other Lines F&U 1	

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Idaho	F&U 1	U&F 30	F&U 1	U&F 30
Illinois	Group Inland Marine PA	Auto, DF, HO U&F 10	Group Inland Marine PA	Medical Malpractice, Group Inland Marine F&U
	Other Lines F&U 1	Group Inland Marine	Other Lines F&U 1	Taxicab Auto, Liquor Liab. U&F 10 Aircraft NF Other Lines with no rate change NF Other Lines Increase or Decrease U&F 10
Indiana	F&U 1	F&U 1 Or F&U 20	F&U 1	F&U 1 Or U&F 30 Aircraft, some Inland Marine NF
Iowa	PA D 30	U&F 15	PA D 30	PA D 30 E 15
			Aircraft, some Manuscript forms NF	Aircraft, some Manuscript policies NF
Kansas	F&U 30	F&U 30	Forms for the basic coverage required by K.S.A. 40-3401 et seq PA D30 ECP NF Other Lines F&U	Com'l. Lines except Farm, Crop, ECP, Aircraft F&U Surety, Fidelity, Boiler & Machinery, Employers' Liab., Credit, Aircraft, ECP NF 1

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Kentucky	PA D 60 E 30	Increase or Decrease ≤ 25% within any territory within a 12- month period U&F 15 Increase or Decrease > 25% within any territory within a 12- month period PA D 30 E 30	PA D 60 E 30	Med. Mal., Livestock, Equine, Pet, Auto Guaranty, Home Warranty Increase or Decrease ≤ 25% within any territory within a 12- month period U&F 15 Increase or Decrease > 25% within any territory within a 12- month period PA Title F&U Other Lines NF 1 Rules triggering flex barriers PA Other rules U&F 15
Louisiana	PA D 45 E 15 UM PA	PA or Rate Change ≤ 10% within 12-month period F&U 30 Rate Change > 10% PA D 45 Rules with no rate impact PA	PA D 45 E 15 UM PA	Annual premium < \$10,000 PA 45 Annual premium > \$10,000 F&U Rules with no rate impact PA
Maine	PA 30 D 30 E 30	F&U 30 E 60 Inland Marine NF 1	PA 30 D 30 E 30 Surety, ECP NF 1	F&U 30 E 60 Inland Marine, ECP NF 1
Maryland	PA D 30 E 60 Some Classes of Inland Marine NF	F&U (30 encouraged) Some Classes of Inland Marine NF	PA D 30 E 60 Aircraft, ECP, Some Inland Marine NF	Med. Mal., Fidelity, Surety, Title PA D30 E 30 Other Lines F&U Aircraft, Some Classes of Inland Marine NF

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Massachusetts	PA D 30 E 30	Auto State Established Auto Deviation PA 30 Other Lines F&U 15 E 30	PA D 30 E 30	Auto F&U 45 Medical Malpractice F&U 15 E 90 Exempt Inland Marine NF Other Lines F&U 15 E 30
Michigan	PA D 30	F&U 1	Commercial, Auto, Credit Property/Casualty PA D 30 Other Lines NF 1	F&U 1 Aircraft NF
Minnesota	PA D 60 E 60	F&U 1	Prof. Liab., Crop Hail, Title, Credit Property, Farm PA D 60 E 60 Other Lines NF 1	Prof. Liab., Crop Hail, Title, Credit Property F&U 1 Other Lines NF 1
Mississippi	PA D 30 E 30 Inland Marine NF	PA D 30 E 30 Inland Marine NF	PA D 30 E 30 Aircraft, Inland Marine NF	PA 30 D 30 E 30 Aircraft, Inland Marine NF
Missouri	F&U 1	U&F 10	U&F 10	Casualty Rate Change > 25% PA 60 Lesser Casualty Changes and Other Lines U&F 10
Montana	PA 60	F&U	Surety, Manuscript, Ocean Marine, Foreign Trade NF 1 Other Lines PA 60	F&U Ocean Marine, Aircraft, Surplus Lines NF 1
Nebraska	F&U	F&U 30 Inland Marine not written according to manual rates NF 1	Medical Malpractice PA D 30 E 30 Financial Guaranty, Ocean Marine, Surety NF 1 Other Lines F&U	Medical Malpractice PA D 30 E 30 Financial Guaranty, Ocean Marine, Surety, Inland Marine not written according to manual rates NF 1 Other Lines F&U

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Nevada	PA	PA D 60	PA	Med. Mal., Surety, Credit PA D 60 Title PA D 30 Other Lines NF 1
New Hampshire	PA D 30 E 30	F&U 30	Title U&F 30 Ocean Marine, ECP NF Other Lines PA D 30 E 30	In competitive market U&F 30 In non-competitive market PA 30 ECP, Fin'l. Guar., Employment Practices Liab., Com'l. Inland Marine not written per manual rates, D&O Liab., Boiler and Machinery, Com'l. Credit NF
New Jersey	PA	Auto Overall change >7% or any single coverage >10% PA Auto Overall change ≤ 7% or any single coverage ≤ 10% Limited Process Other Lines PA 90	F&U 30 Inland Marine, Ocean Marine, Fidelity, Surety, Boiler & Machinery, Special Risks NF 1	U&F 30 Inland Marine & Special Risks NF 1
New Mexico	PA 60	F&U	Farm, Ranch, Medical Professional Liab., Credit-related, Title PA 60 Other Lines F&U	Farm, Ranch, Medical Professional Liab., Title PA 60 D60 E 60 Other Lines F&U
New York	PA D 30 E 30	Auto PA D 30 E 30 + 15 Other Lines F&U Other Lines F&U	PA D 30 E 30 Ocean Marine NF	Public Auto, Title, Credit Property, Gap PA D 30 E 30 + 15 Med. Mal. State Established Ocean Marine NF Other Lines (incl. Commercial Auto other than Public Auto) F&U

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
North Carolina	PA D 90	Auto PA 210 D 60 Homeowners, Dwelling Fire PA 210 D 50	PA D 90	Employers' Liab. PA 210 D 50 Other Lines Modified F&U 60
North Dakota	PA D 60 E 15	Change <5% U&F 30 Change >5% PA	PA D 60 E 15 Aircraft, Crop, DIC, EQ, OM, Pet, Rain NF	Farm, Crop Hail, Medical Malpractice PA D 60 E 15 Other Lines U&F 30
Ohio	Monoline Property PA D 30 E 15 Other Lines F&U	Monoline Property PA D 30 E 15 Other Lines F&U	Monoline Property PA D 30 E 15 Aircraft NF 1 Other Lines FU&	Monoline Property PA D 30 E 15 Aircraft NF 1 Other Lines F&U
Oklahoma	PA D 60 E 30	U&F 30	PA D 60 E 30 Or Optional Process F&U 1 or 30 Title, Surety NF	Med. Mal. PA Special Risks, Surety, Title NF Other Lines U&F 30
Oregon	PA E 30	F&U	PA E 30	Title, Specified Liability Increase or Decrease > 15% PA D 30 E 30 Specified Liability Incr. or Decr. ≤ 15% F&U Aircraft NF Other Lines F&U

State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Pennsylvania	PA D 30 E 30	Auto Decrease > 10% or any Increase PA D 60 E 30 Decrease ≤ 10% F&U 30 Other Lines Decrease > 10% or any Increase PA D30 E 30 Decrease ≤ 10% F&U 30	Large Com'l. Risks NF 1 Small Com'l. Risks F&U 45 Exempt Lines NF 1 Other Lines PA D 30 E 30	Auto Decrease > 10% or any Increase PA D 60 E 30 Decrease ≤ 10% F&U 30 Large Risks NF 1 Small Risks Increase or Decrease > 10% PA D 45 Small Risks Increase or Decrease ≤ 10% F&U 45
Rhode Island	PA	Rate Change ≤ 5% F&U Rate Change > 5% Modified F&U 30	PA Boiler & Machinery, Fidelity, Surety, Aviation, ECP NF 1	Medical Malpractice PA D 30 E 30 ECP NF 1 Other Lines Modified F&U 30 E 30
South Carolina	PA	Auto, HO Increase or Decrease ≤ 7% F&U 30 Auto, HO Increase or Decrease > 7% PA D 60 E 60 Coastal Property PA D 60 E 60 Other Lines PA D 60 E 60	U&F	Small Auto, Fire, Allied Lines Increase or Decrease ≤ 7% F&U 30 Small Auto, Fire, Allied Lines Increase or Decrease > 7% PA D 60 E 60 Medical Malpractice Credit PA D 60 E 60 ECP, Other Lines NF 1
South Dakota	PA D 30 E 30	F&U	F&U ECP NF	F&U ECP NF
Tennessee	PA D 30 E 30	PA D 30 E 30	Farm PA D 30 E 30 Other Lines U&F 15 Aircraft NF	Farm PA D 30 E 30 Other Lines U&F 15 Aircraft NF

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State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Texas	Auto State Std. Forms OR PA D60 E10 Property PA D 60 E 10	F&U	Auto, Multi-Peril, Umbrella, Fidelity, Surety, Farmowners, Ranchowners, Boiler & Machinery, General Liab., Glass PA D 60 E 10 Some Prof. Liab., Some Ocean Marine, Aircraft, ECP NF 1 Mortgage Guaranty F&U 15	Mortgage Guaranty F&U 15 Aircraft, Ocean Marine, Non-filed Inland Marine NF Other Lines F&U
Utah	F&U	U&F 30	F&U Aviation NF	U&F 30 Aviation, Excess or Umbrella NF 1
Vermont	PA D 30 E 30	U&F 15	PA D 30 E 30	Claims-made PA D 30 E 30 Other Lines U&F 15
Virginia	Auto State Std. Forms Other Lines PA D 30 E 30	F&U Some Umbrella NF	PA D 30 E 30 Aircraft, Surety, Crop, Exempt Inland Marine, ECP NF 1	Aircraft, Crop, Exempt Inland Marine, ECP NF 1 Other Lines F&U
Washington	PA D 30 E 15	PA D 30 E 15	ECP, Foreign Trade, Ocean Marine, Surety, Surplus Lines NF 1 Other Lines U&F 30 D 30 E 15	Fidelity, Surety PA D 30 E 15 Large Accounts, Ocean Marine Aircraft, ECP NF 1 Other Lines U&F 30 E 15
West Virginia	PA D 60	PA D 60	Med. Mal. PA D 60 Other Lines F&U	Med. Mal. PA D 90 Aircraft NF Other Lines F&U
Wisconsin	PA D 30 E 30	Inland Marine NF 1 Other Lines U&F 30	PA D 30 E 30	Inland Marine, Ocean Marine NF 1 Other Lines U&F 30

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State Filing Laws Quick Reference *continued*

State	PERSONAL		COMMERCIAL EXCL. WORK. COMP.	
	Form	Rate/Rule	Form	Rate/Rule
Wyoming	PA D 45 E 45	NF	PA D 45 E 45 Exempt Lines NF 1	Title, Hospital Prof. Liab., Physicians and Surgeons Malpractice, Credit Property PA 30 E 30 Other Lines NF 1

Key
 Ax = Commissioner must approve within X days
 CP = Auto class plan
 Dx = Deemed approved after X days
 Ex = Commissioner may extend X days
 ECP = Exempt Commercial Policyholder
 F&Ux = File and use – must file X days before the effective date
 NF = No file (open rating)
 NF 1 = No file with exceptions (e.g., professional liability, claims-made) – see state pages
 PAx(w) = Prior Approval or Prior Approval and must file (W) working days before effective date
 U&Fx = Use and file – must file within X days after effective date

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Workers Compensation

State	Form	Rate/Rule
Alabama	PA D 30	PA D 30
Alaska	PA 30 D 30 E 30	PA D 15 E 15
Arizona	F&U 30	F&U 30
Arkansas	PA 30 D 30 E 30	F&U 30
California	PA	F&U 30
Colorado	PA	F&U
Connecticut	PA D 30 E 30	PA D 30 E 30
Delaware	F&U	F&U
District of Columbia	PA	PA
Florida	PA D 30 E 15	PA
Georgia	PA D 90 E 90	Increase F&U 45 Decrease F&U 1
Hawaii	Std. Form F&U	PA D 90 E 15
Idaho	F&U 1	PA D 60 E
Illinois	F&U	U&F 30
Indiana	F&U	Modified F&U D 30
Iowa	PA D 30	PA D 30 E 15
Kansas	PA D 30	F&U
Kentucky	PA D 60 E 30	Increase or Decrease \leq 15% within any territory within a 12-month period U&F 15 Increase or Decrease $>$ 15% within any territory within a 12-month period PA D 30 E 30
Louisiana	PA D 45 E 15	F&U 90
Maine	PA 30 D 30 E 30	PA 30 D 30 E 60
Maryland	Std. Form	F&U 1 Or PA 30 E 30
Massachusetts	PA	PA
Michigan	NF	F&U

Workers Compensation

State	Form	Rate/Rule
Minnesota	Std. Form	PA 60
	Non-standard form PA	
Mississippi	PA D 30 E 30	PA 30 D 30 E 30
Missouri	Std. Form	U&F 30
Montana	PA 60	PA 30
		Loss Cost Adoption F&U 1
Nebraska	PA D 30 E 30	F&U
		Excess WC NF
Nevada	Std. Form Or PA D 60	F&U 15
New Hampshire	PA D 30	PA
New Jersey	PA	Std. Rates PA
New Mexico	PA 90	PA 90
New York	PA	NY Compensation Insurance Rating Board
North Carolina	Std. Form PA	State Bureau Rates PA 210
North Dakota	Monopolistic State Fund	Monopolistic State Fund
Ohio	Monopolistic State Fund	Monopolistic State Fund
Oklahoma	PA D 60 E 30	U&F 30
Oregon	Std. Form	PA D 30 E 30
	Endorsement PA D 30 E 30	
Pennsylvania	State Rating Bureau	State Bureau Rates/Rules
		Rate Deviation PA
Rhode Island	PA	PA Effective Date 60 days after approval
South Carolina	PA	PA
South Dakota	PA D 30	F&U
Tennessee	U&F 15	U&F 15
Texas	Std. Form	F&U 30
	Endorsement PA	
Utah	F&U	F&U 30

State Filing Laws Quick Reference *continued*

Workers Compensation

State	Form	Rate/Rule
Vermont	PA	PA D 30 E 30 Sub-classes F&U 30 D 33
Virginia	PA	F&U 60 E 30
Washington	Monopolistic State Fund	Monopolistic State Fund
West Virginia	BrickStreet Insurance	BrickStreet Insurance
Wisconsin	State Bureau Forms	State Bureau Rates/Rules
Wyoming	Monopolistic State Fund	Monopolistic State Fund

Key

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- NF 1 = No file with exceptions (e.g., professional liability, claims-made) – see state pages
- P Ax(w) = Prior Approval or Prior Approval and must file (W) working days before effective date
- U&Fx = Use and file – must file within X days after effective date

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