Current and Future Public Policy Considerations

American Academy of Actuaries

Antitrust Notice

- The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.

- Under no circumstances shall CAS seminars be used as a means for competing companies or firms to reach any understanding – expressed or implied – that restricts competition or in any way impairs the ability of members to exercise independent business judgment regarding matters affecting competition.

- It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.

About the Academy

- The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues.

- The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

For more information, please visit:

actuary.org

Presenters

Panelists

Rich Gibson, MAAA, FCAS—Senior Casualty Fellow, American Academy of Actuaries

Susan Kent, MAAA, FCAS—Vice President, Casualty Practice Council, American Academy of Actuaries

Christian Myers, FCAS—Chief Actuary, New Mexico Office of Superintendent of Insurance (OSI)

Regulatory/Legislative Players

- NAIC, state departments of insurance
- National Conference of Insurance Legislators (NCOIL)
- Congress
  - House Financial Services Committee
  - Senate Banking, Housing and Urban Affairs
  - Others
- White House

Regulatory/Legislative Players (cont.)

- Federal Agencies
  - Government Accountability Office (GAO)
  - Congressional Budget Office (CBO)
  - Congressional Research Service (CRS)
  - Cybersecurity and Infrastructure Security Agency (CISA)
  - Federal Insurance Office (FIO)
  - National Institute of Standards and Technology (NIST)
  - National Flood Insurance Program (NFIP, FEMA)

- The Academy regularly monitors/meets with many of these various players

Regulatory/Legislative Issues

- Artificial intelligence (AI), modeling governance, bias testing
- Climate change
- Availability/affordability
- Cybersecurity
- Federal insurance programs

State-Related Activity

National Association of Insurance Commissioners (NAIC)

- Based in Kansas City
- Standard setting body driven by member Departments of Insurance
- Three national meetings a year (typically March, August, November)
- Work is managed via committees, subcommittees, task forces, and work groups, each made up of regulators and commissioners across the states
- Property and Casualty Insurance (C) Committee
- Many meetings are open to the public (Current Public Calendar)

Christian Myers, FCAS—Chief Actuary, New Mexico Office of Superintendent of Insurance (OSI)

The New Mexico OSI and Key Market Challenges

Christian Myers FCAS

Chief Actuary

New Mexico Fun Facts

- Fifth largest state based on geography and 36ᵗʰ largest based on population

- Home of White Sands and Carlsbad Caverns National Parks, Santa Fe, and Taos Pueblo

- Hot air ballooning capital of the world

- Unique cuisine with red and green chile

- Site of the alleged UFO crash of 1947 in Roswell, New Mexico

- Birthplace of Jeff Bezos, Demi Lovato, and Billy the Kid

New Mexico (Not So) Fun Facts

- Ranked 45 of 50 states for household income

- Third highest portion of uninsured motorists in the country

- High medical malpractice liability premiums and poor public school system

- Albuquerque had highest auto theft rates of any metro area in the country in 2016-2018

- State has significant wildfire and wind/hail catastrophic loss exposure

Overview of OSI

Vision

The vision of OSI is to become one of the country's leading insurance regulatory agencies. We will do everything in our power to make sure that New Mexicans are treated with fairness and honesty when it comes to matters of insurance

Divisions

- Administrative
- Consumer Services
- Financial Regulation
- Office of the General Council
- Licensing
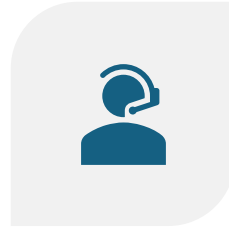- Life and Health
- Property and Casualty

Actuarial Key Responsibilities

RATE AND RULE FILING REVIEW

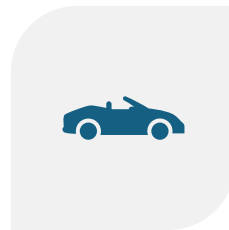FINANCIAL EXAMINATIONS

DATA CALL ADMINISTRATION AND ANALYSIS

NAIC COMMITTEES

SUPPORTING LEGISLATION DEVELOPMENT

RATING ORGANIZATION PARTNERSHIP

RESIDUAL MARKET SUPPORT

MONITOR RATE AND TRENDS

Filing Volume and Areas of Focus

2023 New Mexico Filing Volume

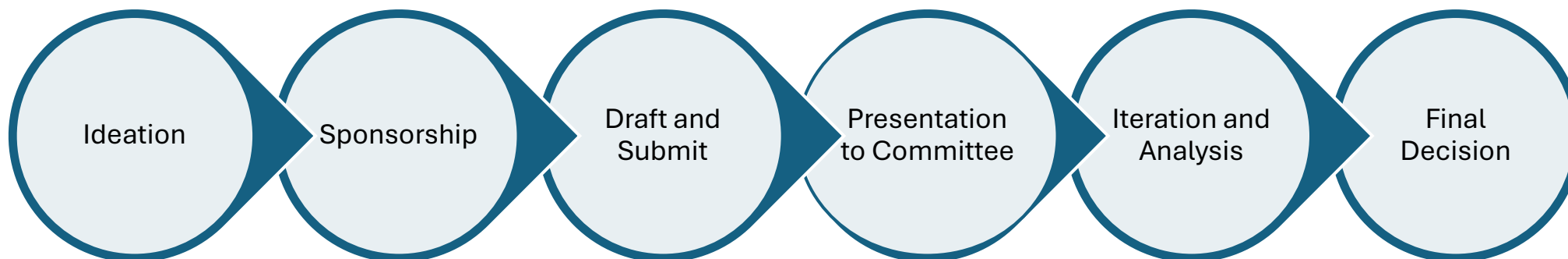| Type of Insurance	Rate	Rule	Rate and Rule
Commercial Auto	7	14	10
Commercial Multiple Peril	3	11	6
Homeowners	29	35	44
Inland Marine	12	9	40
Medical Malpractice	7	5	16
Personal Auto	57	43	65
Workers Compensation	29	49	39
Other	27	63	57

Common rate filing objections in New Mexico

- Inadequate documentation

- Unreasonable actuarial assumptions

- Unsymmetrical and indefinite rate capping

- Automatic rate increases

New Mexico Legislative Session Overview

- Collaborate with industry, Senate, House of Representatives, and other regulatory bodies

- Opportunity to introduce new laws and secure funds for initiatives

- Alternate 30-day and 60-day sessions that start in January

Ideation → Sponsorship → Draft and Submit → Presentation to Committee → Iteration and Analysis → Final Decision

Key Issues Facing New Mexico

Private Passenger Auto Affordability
- Problem: Low wages and high premiums lead to high uninsured motorist problem
- Exploring: Subsidies, rating restrictions, and state-run plans

Wildfire Exposure
- Problem: Significant wildfires each of past two years and carriers are slowing new business growth
- Exploring: FAIR plan changes including pricing, expansion, and coverage changes

Healthcare Provider Availability
- Problem: High medical malpractice premiums and poor education system are driving doctors from the state
- Exploring: Revisions to Patients Compensation Fund and additional subsidies to independent providers

Susan Kent – MAAA, FCAS – Vice President, Casualty Practice Council, American Academy of Actuaries

NAIC AI Model Bulletin

- On December 4, 2023, the NAIC adopted the model bulletin on the use of AI systems by insurers

- Sets forth the expectations as to how insurers will govern and use AI technologies

- Model for states to adopt/implement

- Bulletin refers to the *Principles of Artificial Intelligence* previously adopted by the NAIC

- Bulletin applies to all forms of insurance

NAIC AI Model Bulletin

- "[I]t is important that Insurers adopt and implement controls specifically related to their use of AI that are designed to mitigate the risk of Adverse Consumer Outcomes"

- Insurers required to maintain a written AIS program for responsible use of AI systems

- Bulletin provides a detailed discussion of AIS program guidelines (General, Governance, Risk Management, Reliance on Third Parties)

NAIC AI Model Bulletin

- Bulletin uses the term "bias" several times
- No definition of bias is included therein
- The term was subject to considerable open discussion at H Committee public meeting, with intent of replacing the term
- No suitable replacement was identified, and the bulletin was adopted

U.S. Guidance on AI and Bias

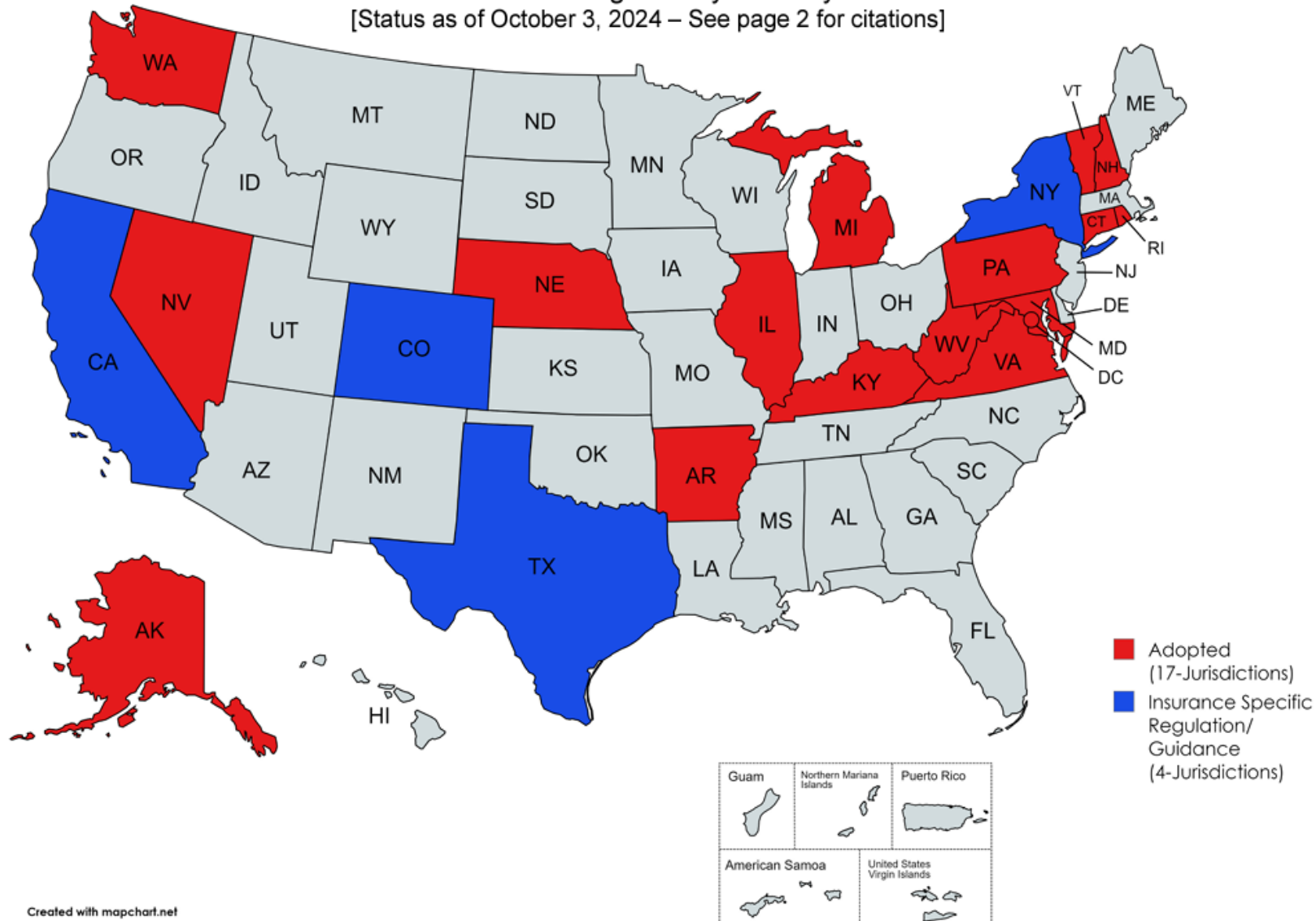| NIST Risk Framework	Executive Order	NAIC Model Bulletin
[Artificial Intelligence Risk Management Framework (AI RMF 1.0)](#) January 26, 2023	[Executive Order 14110](#) Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence October 30, 2023	[NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers](#) December 4, 2023
Voluntary resource for designing, developing, deploying, and using AI systems to manage AI risks and promote trustworthy and responsible AI.	Advances a federal government coordinated approach to governing the development and use of AI safely and responsibly.	Sets expectations on how insurers will govern the development/ acquisition and use of certain AI technologies.

Implementation of NAIC Model Bulletin:
Use of Artificial Intelligence Systems by Insurers
[Status as of October 3, 2024 – See page 2 for citations]

Legend:
- Adopted (17-Jurisdictions)
- Insurance Specific Regulation/ Guidance (4-Jurisdictions)

Created with mapchart.net

https://content.naic.org/sites/default/files/cmte-h-big-data-artificial-intelligence-wg-ai-model-bulletin.pdf.pdf

Colorado SB21-169, *Protecting Consumers from Unfair Discrimination in Insurance Practices*

- The Colorado Division of Insurance is working through how the law will be implemented
- Colorado is working through each line of insurance sequentially
- Colorado held a number of stakeholder meetings on private passenger auto insurance underwriting in 2023

Other States Following Colorado's Lead

Bills introduced recently
- Illinois House Bill 4611—only applies to auto insurance
- Louisiana House Bill 673
- New York Assembly Bill 8369

NY Circular Letter

- The New York Department of Financial Services released a circular letter, "Use of Artificial Intelligence Systems and External Consumer Data and Information Sources in Insurance Underwriting and Pricing"
- Academy provided comments on March 17

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NY Circular Letter

- The Fairness Principles include discussion of proxy assessment
- In the Analyzing for Unfair or Unlawful Discrimination section quantitative and qualitative assessment: able to explain how the insurer's AI System (AIS) operates and the intuitive logical relationship between external consumer data information sources (ECDIS) and other model variables with an insured or potential insured
- Insurers that use ECDIS or AIS should formalize their development and management in written policies and procedures
- Insurers retain responsibility for understanding any tools that were developed or deployed by third-party vendors and ensuring such comply with all applicable laws, rules, and regulations

D.C. DISB Initiative to Evaluate Unintentional Bias in Private Passenger Automobile Insurance

- District of Columbia Department of Insurance, Securities and Banking (DISB) have been studying unintentional bias in auto insurance since 2020

- Conducted a data call in 2023; results have been collected and a draft report has been released from the DISB

- Comment letter to DISB on data call (January 2023)

- Comment letter to DISB on the draft market conduct study, *Evaluating Unintentional Bias in Private Passenger Automobile Insurance* (June 2024)

Federal-Level Activity

American Academy of Actuaries

Artificial Intelligence—White House and NIST

Corporate Governance

- The structure of rules, practices, and processes used to direct and manage a company

- Involves balancing the interests of a company's stakeholders,
  - such as shareholders, senior management, customers, suppliers, lenders, the government, and the community

- The basic principles of corporate governance are <u>accountability</u>, <u>transparency</u>, <u>fairness</u>, <u>responsibility</u>, and <u>risk management</u>

- A company's board of directors is the primary force influencing corporate governance

Executive Order 14110, Safe, Secure, and Trustworthy AI

- October 30, 2023
- Administration places the highest urgency on governing the development and use of AI safely and responsibly, and is therefore advancing a coordinated, federal government-wide approach to doing so.
- Aimed at executive departments and agencies
- NIST is charged with continuing to promote AI industry standards

Executive Order 14110, Safe, Secure, and Trustworthy AI—Eight Guiding Principles

- Artificial Intelligence must be safe and secure.

- Promoting responsible innovation, competition, and collaboration will allow the United States to lead in AI and unlock the technology's potential to solve some of society's most difficult challenges.

- The responsible development and use of AI require a commitment to supporting American workers.

- Artificial Intelligence policies must be consistent with my Administration's dedication to advancing equity and civil rights.

Executive Order 14110, Safe, Secure, and Trustworthy AI—Eight Guiding Principles (cont.)

- The interests of Americans who increasingly use, interact with, or purchase AI and AI-enabled products in their daily lives must be protected.

- Americans' privacy and civil liberties must be protected as AI continues advancing.

- It is important to manage the risks from the Federal Government's own use of AI and increase its internal capacity to regulate, govern, and support responsible use of AI to deliver better results for Americans.

- The Federal Government should lead the way to global societal, economic, and technological progress, as the United States has in previous eras of disruptive innovation and change.

NIST AI Risk Management Framework

- [AI RMF 1.0](#)

- Released in January 2023

- Wholistic view/discussion of managing risk associated with AI

- Framework is intended to be voluntary, non-sector-specific

NIST AI Risk Management Framework

- Key terms:
  - AI Actor—"those who play an active role in the AI system lifecycle, including organizations and individuals that deploy or operate AI" OECD (2019)
  - TEVV—test, evaluation, verification, and validation

- "Core concepts in responsible AI emphasize human centricity, social responsibility, and sustainability."

- "AI risk management can drive responsible uses and practices by prompting organizations and their internal teams who design, develop, and deploy AI to think more critically about context and potential or unexpected negative and positive impacts."

NIST AI Risk Management Framework

- "[T]he goal of the AI RMF is to offer a resource to the organizations designing, developing, deploying, or using AI systems to help manage the many risks of AI and promote trustworthy and responsible development and use of AI systems."

- "Characteristics of trustworthy AI systems include: valid and reliable, safe, secure and resilient, accountable and transparent, explainable and interpretable, privacy-enhanced, and fair with harmful bias managed."

- Four core functions: Govern, Map, Measure, and Manage

NIST Risk Management Framework (RFM) Core

Governance

- Implements a culture of risk management over the <u>life of AI systems</u>: design, develop/acquire, deploy and evaluate;
- Aligns AI risk management and AI system design with <u>organizational principles</u>, policies, and strategic priorities;
- Ensures <u>competent individuals</u> are involved in acquiring, training, deploying, and monitoring AI systems; and
- Addresses legal and other issues concerning use of <u>third-party software</u> or hardware systems and data.

Congressional Activity

House Financial Services and Senate Banking, Housing and Urban Affairs

- [Hearing Titled: The Factors Influencing the High Cost of Insurance](#), November 2023

- [Wildfire Insurance Coverage Study Act of 2023](#), draft introduced

- [Hearing: Perspectives on Challenges in the Property Insurance Market and the Impact on Consumers](#), September 2023

Other Federal Agencies

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FEMA/NFIP—Flood Insurance

- CRS – "[A Brief Introduction to the National Flood Insurance Program](#)," October 2024
- Key facts:
  - $1.3 trillion insurance in force
  - PML is over $45 billion
  - Policy count in excess of 4.7 million
  - $4.3 billion in annual premium
  - $20.5 billion debt with the Treasury
  - Currently authorized through December 20, 2024
  - Last multiyear extension expired September 30, 2017
  - 31 short-term extensions since then

FEMA/NFIP

- FEMA has put forth a 17-point legislative proposal for NFIP in four categories:
    - Sound Financial Framework
    - Risk Analysis and Communication
    - Improve Resilience
    - Technical and Operational Enhancements

FEMA/NFIP

- Risk Rating 2.0
  - o Fully implemented as of April 1, 2023
  - o Introduction of new rating variables aimed at better reflecting risk of flooding
  - o Still has in place annual premium increase cap of 18%
  - o Full risk rates over time as capped policies are on a "glide path" to full cost basis

FEMA/NFIP

- Academy Resources:
  - [The National Flood Insurance Program: Past, Present...and Future?](#):   July 2011
  - [The National Flood Insurance Program: Challenges and Solutions](#): April 2017
  - [The National Flood Insurance Program: Challenges and Solutions](#): September 2019
  - [The National Flood Insurance Program: Challenges and Solutions](#): September 2020

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GAO, CBO, FIO, CISA—
Climate, Affordability/Availability, Cybersecurity

- GAO, FIO, CBO all track climate-related risks

  - [Climate Change: Enhancing Federal Resilience](), September 2022

  - [Insurance Supervision and Regulation of Climate Related Risks](), June 2023

  - [Climate Change, Disaster Risk, and Homeowner's Insurance](), August 2024

- Per a GAO recommendation, FIO and CISA are studying a potential federal insurance backstop for catastrophic cyber attacks

Questions?

Thank You

For more information on the American Academy of Actuaries,

please contact

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