

# Capitol Notes



THE LEGISLATIVE AND POLITICAL NEWSLETTER OF THE  
MN INDEPENDENT INSURANCE AGENTS & BROKERS ASSOCIATION

## MIIAB 2016 Legislative Session Report

The legislature has adjourned and left St. Paul, but the dust hasn't settled on another chaotic legislative session, and not just because of the ongoing construction at the capitol. There were a couple of major proposals that were casualties of our continued experiment in divided government. The legislature, for the second year in a row, failed to pass a long-term transportation funding plan. They also failed to pass a \$1 billion bonding package of state construction projects. Both of these were key agenda items for the session. The Governor is likely to recall legislators to the capitol to enact a bonding bill in the near future.

The legislature did pass a \$182 million supplemental budget bill and a \$257 million tax proposal which features mostly tax relief for students, families and businesses. The tax bill includes an important MIIAB proposal related to residency determinations for income tax purposes.

The short eleven-week session left little time for controversial legislation including several insurance proposals opposed by MIIAB. In fact, this session will be more remembered for bills that were not debated or enacted, than the legislation signed into law by the governor.

Let's start with what was passed this session.

**Residency tests for MN income tax.** A department of revenue rule allows for the location of an individual's insurance producer and financial advisor to be a consideration for determining a person's state of residency for MN income tax. MIIAB working with NAIFA and the life insurance industry were able to have legislation passed that eliminates this residency test. Legislation directs the department of revenue to no longer consider the location of a person's attorney, CPA or financial advisor when determining state of domicile.

Financial advisor is defined as an individual or business entity engaged in the business as a certified financial planner, registered investment advisor, licensed insurance producer, or a registered securities broker-dealer representative. This is a carry-over issue from last year that failed to be enacted because the state legislature could not agree on a 2015 tax bill. However, we were able to include this provision in the 2016 tax bill passed on the last night of the session. We expect the governor to sign the bill shortly.

**Autocycle law enacted.** A new law recognizes and defines autocycles in state law. Autocycles are classified as a type of motorcycle but with three wheels, car-like seating instead of a saddle and cabin space with floorboards instead of footrests. The proposal is an initiative of Plymouth-based Polaris Industries, maker of the Slingshot.

The law allows operators to operate autocycles with a driver's license without needing a motorcycle endorsement. A provision of the bill that would have required auto insurers to add no-fault coverage to the insurance policy of autocycle owners was deleted from the bill. The new law is effective immediately.

Here are some other proposals that were not passed this year. I suspect that we shall see some of these again when the legislature returns in 2017.

**Fair Auto Insurance Act.** Commerce Commissioner Mike Rothman's sweeping proposal to overturn the state's auto insurance "file and use" rating system and replace it with a "California style" prior approval system failed to receive serious legislative attention. The "Fair Insurance Act" called for limiting underwriting to 3 factors, driving records, years of driving experience and miles driven. Credit histories and insurance scores would not be allowed as a factor in insurance pricing. The bill also called for an immediate 20 percent rate reduction retroactive to January 2016 and another 20 percent premium reduction for safe driving.

**No-fault data collection.** A proposal strongly supported by the Insurance Federation of Minnesota would have extended the Senate's Task Force on No-Fault Auto Insurance and also authorized the Department of Commerce to collect detailed information on claims. Individual claims data would be necessary to better assess the level of insurance fraud in the state and ways to address it. The bill was defeated by the Senate Judiciary Committee. No-fault auto reform took another hit at the legislature.

**No-fault double recovery.** Under the Minnesota no-fault law an insured may recover up to \$20,000 in replacement service loss benefits. Under a recent Supreme Court case, *State Farm Mutual Auto. Ins. Co. v. Lennartson*, the court ruled that an insured may receive compensation for these damages in a civil suit. The proposal, which was not enacted, would prohibit a double recovery whereby an insured received compensation for replacement service loss benefits from a civil suit as well as from benefits due under their no-fault coverage.

**State Sponsored Retirement Plans.** As a result of legislation last year sponsored by the AARP and several unions, a feasibility study was presented to the legislature in March that recommended a state-administered mandatory participation IRA for the state's small employers who do not offer retirement benefits. These IRAs would be required to be offered by state employers but would be voluntary for their employees. A second alternative was a state-administered voluntary participation IRA but according to the study was not as feasible since participation would not be sufficient to cover the set-up and administrative costs of this type of plan.

Fortunately, the idea of state involvement in private retirement accounts was not well received and the legislature chose not to address this issue. Again, given the support of this issue within certain interest groups, this issue may return next year. So far, three states have enacted similar legislation.

**Auto Repair Shop Referrals.** The Alliance of Automotive Service Providers introduced legislation to try to alter insurance company referrals to preferred auto repair providers. Their legislation would require insurers to consider specific criteria in repair shop referrals such as convenience of location, quality and workmanship of repairs, technician training and customer service. Insurers not employing these criteria could be subject to civil actions. This legislation failed to get a hearing.

**MinnesotaCare - MNsure.** Both the House and Senate were very clear in their support or opposition to Minnesota's response to the Affordable Care Act. The House Republicans contend that the state's health insurance exchange, MNsure, has not met its enrollment goals, cannot continue without additional state financing and is basically a failure. They proposed dumping MNsure in favor of the federal exchange. They also proposed allowing people to choose either state sponsored health care, Medical Assistance or MinnesotaCare, or a private health insurance plan. They would direct the state to seek a federal waiver to allow for tax credits to be available to persons regardless of whether they buy insurance through the exchange or the private market.

The Senate Democrats while admitting to some of MNsure's failings continue to proclaim it is getting better. They advocated for continued state funding for MNsure, increasing eligibility for MinnesotaCare from 200% of federal poverty to 275% and continuation of the state's provider tax which is scheduled to sunset in 2019.



**Dominic Sposeto**  
MIIAB Lobbyist

Both of these proposals were like trains that passed in the night. Neither side seriously considered the other side's proposals, so things pretty much stay as they are.