

May 6, 2026

The Honorable Naquetta Ricks and Members of
the House Business Affairs & Labor Committee
Colorado General Assembly
200 E. Colfax Avenue
Denver, CO 80203

Submitted electronically via email

RE: SB26-175, Adjust Experience Modification Factor in Workers' Compensation

Dear Chair Ricks and Committee Members:

The American Property Casualty Insurance Association (APCIA)¹ appreciates the opportunity to comment on Senate Bill 26-175, concerning the adjustment of an employer's experience modification factor in workers' compensation. APCIA advocates for a healthy and stable state workers' compensation system that provides prompt indemnity benefits and high-quality medical care to injured workers at a fair and reasonable cost to employers.

APCIA has concerns with SB26-175 and opposes the bill unless favorably amended. While APCIA supports an accurate and actuarially sound workers' compensation rating system, SB26-175 is inequitable, undermines the integrity of the experience rating system, requires Colorado employers to effectively subsidize payments to certain, selected employers, and adds administrative costs and ambiguity to the Colorado workers' compensation system.

• **The Proposal is One-Sided and Unfair:** SB26-175 only allows the lowering of experience modification factors downward and the payment of premium credits when an employer has positive development on a claim closing for less than open reserves. To maintain fairness and equilibrium, the proposal should likewise provide for the raising of experience rating factors and the charging of premium debits when there is adverse development on an open claim that settles above reserves. The bill fails to include such a parallel provision. In effect, the bill becomes a variant of the old schoolyard bet of "Heads I win, tails you lose."

¹ Representing nearly two thirds of the Colorado and U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, protecting families, communities, and businesses in the U.S. and across the globe.

• **The Proposal Undermines Experience Rating:** The experience rating system is the heart of the fairness and accuracy of the workers' compensation rate determination process. The experience rating system ensures that the rating for all workers' compensation risks is equitably determined on an actuarially credible basis. By removing certain losses from experience rating when there is positive claim development but not treating certain losses where there is adverse development, the experience rating system becomes skewed and loses its actuarial credibility. This "hand on the scale" approach violates the integrity of experience rating to the detriment of all Colorado employers.

• **Other Colorado Employers Will Subsidize the Premium Credits:** Experience rating is a zero-sum game. Experience rating compiles all paid losses plus case reserves to establish the standard rating factor. By removing certain losses and reserves from the calculations, the rating factors necessarily shift. The result is those employers not receiving a premium credit under the proposal, are effectively subsidizing the payments to those employers whose claims have closed for less than open reserves. The net effect of this bill may be that most Colorado employers will have a negative rating impact.

• **Proposal Invites Anomalous Illogical Results:** The proposal authorizes anomalous, illogical results. By allowing the factoring of only claims that close with positive developments and prohibiting the inclusion of claims with adverse developments, the proposal can lead to strange results. For example, a hypothetical employer could have one claim that closed for less than open reserves but also have five claims closing for more than open reserves. If enacted, the proposal would require the insurer to ignore the five adverse claim developments and provide a premium credit for the single positive development. This is an absurd result that demonstrates the proposal is not actuarially credible.

• **Administrative Costs will Increase:** A no-fault system such as workers' compensation requires that administrative costs be kept to a minimum. The multiple notifications, recalculations of experience modification factors, and distribution of premium credits will create additional burdens, paperwork, and administrative tasks. The increase in costs will be distributed through as system costs and, in the end, may slightly increase costs for all Colorado employers.

• **The Bill Lacks Clarity as to Retroactivity:** While APCIA believes the intent of the bill is to apply the premium credit only to current policies, the bill's language is less than clear as to whether the bill would permit a "claw back" to require premium credits on expired policies. Without language specifying that premium credits are only available for current unexpired policies, there is a concern that the bill could be used to seek premium credits from long-expired policies.

APCIA thanks you for your consideration of these issues.

Respectfully submitted,



Lyn D. Elliott
Vice President, State Government Relations – Mountain Region