

March 3, 2022

MEMORANDUM

TO: Senate Commerce Committee via Email & Hand Delivery

FROM: Stephen Thomas, Lobbyist for Farm Bureau Mutual Insurance Co. of Idaho

DATE: March 2, 2022

RE: Insurance: Uninsured Motorist Coverage Bills Hearing 3/3/22
UIM BILLS S1281 vs. S1269

Bill links:

<https://legislature.idaho.gov/sessioninfo/2022/legislation/S1281/>

<https://legislature.idaho.gov/sessioninfo/2022/legislation/S1269/>

Farm Bureau opposes S1269 but supports S1281 (Guthrie/United Heritage), because the latter bill preserves driver choice. Unlike S 1269 which mandates one type of coverage only –“excess”—which is a richer benefit and therefore a more expensive choice. Higher costs could induce rejection of UIM coverage, thereby worsening the perceived problem.

HISTORY –

Between 1988 and 1998, the Legislature passed the Proof of Financial Responsibility law (now I.C. 49-117(20)) setting minimum liability insurance coverage in order to drive: \$25,000 for 1 claimant /\$50,000 for 2 or more claimants, per accident. Those limits have never been changed despite considerable background inflation and heightened medical ‘trend’ inflation. In 2022, \$25,000 is not much purchasing power to pay medical bills.

2008 Legislature passed H429 (now I.C. 41-2503) defining UM and UIM, and requiring insurance agents to offer both, but NOT MANDATING either coverage be bought. Director to prepare form explaining the coverage, to be rejected IN WRITING.

2019 Department of Insurance promulgates more explicit form under Section 2503, explaining “Difference in limits” aka “offset” v. “excess” UIM coverage type. See pages 6-7 of <https://adminrules.idaho.gov/rules/2019%20Archive%20C1/18/180120.pdf> See, also DOI’s web page with explanation: <https://doi.idaho.gov/consumers/auto-insurance/required-auto-coverage/> Form is explicit and detailed, with concrete examples.

IDAHO SUPREME COURT – *Pena v Viking Insurance* (2/1/22) ISC Docket 48379
<https://isc.idaho.gov/opinions/48379x.pdf> (finding that Viking’s minimum limits UIM

coverage was illusory, but expressly limiting that decision, and affirming at page 13 that offset coverage was legal.¹⁾

PUBLIC POLICY

Farm Bureau sells Offset UIM only and has for years, but NOT at minimum 25/50 limits. Farm Bureau respectfully submits that Idaho's public policy should:

-Continue the driving public's right to choose UIM coverage & type of coverage

-Not prohibit "offset" type coverage, as does S1269 (mandates Excess only)

-Solve the Viking Ins. case's core issue via S1281: ultra-low UIM limits are treated as Excess, otherwise allowing the market to work, including Offset type, which the Supreme Court just held not illusory, when above minimum levels.

CONCLUSION:

No reason has been shown to mandate 1 choice only, the more expensive choice

Mandating the expensive choice may DEFEAT the goal of more insurance to respond to a Loss, because the decision to buy or reject UIM coverage remains with insured, and Idahoans are frugal...they also dislike being mandated by Government

Most of Idaho insurance industry offers Offset type UIM coverage, so the mandate approach of S1269 forces considerable changes on carriers and their agents

2019 UIM explanation sign off form by DOI should be given a chance to work

1

"Our opinion today in no way invalidates an insurer's ability to offer and enforce its offset coverage provisions. The insurer may do so in all cases—excepting those where the chance of receiving benefits would be illusory. Viking's standard UIM policy, including its limitations and exclusions is fully enforceable when the limit exceeds \$25,000. That said, because the Legislature requires insurers to issue liability limits of \$25,000, UIM coverage limits must exceed \$25,000 to avoid a finding that they are illusory."