

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE/INTERNATIONAL ISSUES TASK FORCE
SAN ANTONIO, TEXAS
NOVEMBER 12, 2015
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee and International Issues Task Force met jointly at the Hilton Palacio del Rio in San Antonio, Texas, on Thursday, November 12, 2015, at 1:30 p.m.

Rep. Bill Botzow of Vermont, chair of the Committee, and Sen. Dan "Blade" Morrish of Louisiana, chair of the Task Force, presided.

Other members of the Committee present were:

Sen. Travis Holdman, IN
Rep. Matt Lehman, IN
Sen. Jerry Klein, ND
Sen. David O'Connell, ND
Sen. Neil Breslin, NY
Rep. Kathleen Keenan, VT

Other legislators present were:

Rep. Richard Smith, GA	Rep. Don Flanders, NH
Rep. Romy Cachola, HI	Rep. Maureen Dakin, VT
Rep. Ronald Crimm, KY	Rep. Warren Kitzmiller, VT
Rep. Joseph Fischer, KY	Sen. Jan Angel, WA
Rep. Jeff Greer, KY	Rep. Tyler August, WI
Rep. Joe Atkins, MN	Sen. Mike Hall, WV
Rep. Don Gosen, MO	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Andrew Williamson, Nolan Associates, NCOIL Director of Legislative Affairs

MINUTES

Upon a motion made and seconded, the Committee and Task Force unanimously approved the minutes of their July 16, 2015, meeting in Indianapolis, Indiana.

STATE LEGISLATIVE AND REGULATORY ACTIVITY

Rep. Botzow spoke to the importance of ensuring that state insurance regulation continues to thrive and of coming together as state officials to achieve that goal. Sen. Morrish added that NCOIL legislators and others needed to bring the message back to state insurance committees.

Ms. Thorson reported that, as per Committee and Task Force agreement at the Summer Meeting, NCOIL had added a one-page "consumer impacts" document to the NCOIL *Legislative Toolkit* and had distributed the enhanced *Toolkit* to state legislators prior to the Annual

Meeting. She noted that NCOIL first sent the *Toolkit* in April 2015. The one-pager, she said, asserted that pressures from some agencies could result in acceptance of bank-type, one-size-fits-all regulation on insurers, in an effort to create a single global regulatory standard, and in challenges to state legislators' ability to represent constituents.

Comm. Ted Nickel (WI), speaking on behalf of the National Association of Insurance Commissioners (NAIC), said that enhancements to the NAIC *Model Holding Company Act* and the NAIC *Credit for Reinsurance Model Act* were playing an important role in international discussions, as were the NAIC *Own Risk Solvency Assessment (ORSA) Model Act* and *Corporate Governance Annual Disclosure Model Act*. He reported that the ORSA model would be an accreditation requirement as of 2018.

GLOBAL FINANCIAL MARKET ACTIVITY/INSURANCE IMPACTS

Kevin McKechnie of the American Bankers Association (ABA) commented that the tension that existed between different perspectives in international insurance discussions might never be resolved. Julie Gackenbach of Confrere Strategies said that Congress was grappling with how to preserve the state insurance regulatory system while ensuring that the U.S. contained systemic risk and balanced competing interests in light of marketplace changes.

IAIS INITIATIVES

Comm. Nickel offered updates on International Association of Insurance Supervisors (IAIS) initiatives. He said that IAIS was moving forward with high loss absorbency (HLA) standards for global systemically important insurers (G-SIIs), though key issues remained regarding an assessment methodology and the definition of non-traditional insurance activities. On capital standards, Comm. Nickel said that work was underway on 2015 field testing that would lead to refinement of the insurance capital standard (ICS) and to a new consultation document in mid-2016, when quantitative field testing would begin. He also said, among other things, that refinements to the basic capital requirement (BCR) would be considered during that time.

Comm. Nickel outlined NAIC participation in IAIS efforts related to group supervision, market conduct, and corporate governance. He noted that members of "Team USA" would meet on December 4 at the Treasury Department in order to discuss IAIS capital standards.

Dave Snyder of the Property Casualty Insurers Association of America (PCI) said that NCOIL participation in international insurance discussions had begun to make a difference and that NCOIL should further its efforts. He stressed that state insurance legislators should continue to educate themselves on international developments.

Mr. Snyder said that the IAIS was moving forward on almost all aspects of insurance regulation, issuing global standards and various papers. He expressed concern regarding a Financial Stability Board (FSB) request for comments on an FSB paper related to the resolution of systemically important insurers. He said the paper addressed more than that and failed to acknowledge the successful U.S. guaranty fund system. In addition, he noted that transparency at the IAIS and the FSB had not improved.

Mr. Snyder said that Solvency II was scheduled to go into effect on January 1, despite many controversies. Of significant and emerging concern, he said, was that Europe apparently was trying to apply Solvency II requirements to U.S.-based holding companies of European operations.

Mr. Snyder then spoke to congressional efforts and pending legislation, including the *Policyholder Protection Act* and legislation to promote transparency and consensus among U.S. officials representing this country overseas. He urged NCOIL to work with Congress and to endorse legislation in particular that would require federal agencies to consult with the states to arrive at consensus before advocating for an international standard and that would recognize the U.S. approach as one way to comply with an internationally developed regulation.

In response to a question from Sen. Morrish regarding potential NCOIL next steps, Mr. Snyder suggested that NCOIL take “an intensive look” at proposed federal legislation and determine which proposals to focus on and work toward enactment. Following a question from Rep. Botzow related to NCOIL influence, Mr. Snyder said that heightened congressional awareness of international activity was due in part to NCOIL efforts and that passage of federal legislation would be the ultimate indicator of NCOIL success.

Mr. Snyder also said, in response to questions from Rep. Keiser and Sen. Morrish regarding IAIS-related costs, that companies and officials were dedicating significant resources to IAIS initiatives and that applying EU capital standards to large U.S. companies doing business overseas could increase the annual prices of homeowner and auto insurance policies.

Rep. Botzow and Sen. Morrish commented, among other items, on the importance of state legislatures and of NCOIL input. Mr. Snyder offered to provide information on individual bills to help inform NCOIL efforts.

TRADE NEGOTIATION ACTIVITY

Mr. Snyder said Congress had narrowly passed trade promotion authority, which he said established the roles of Congress and the President with regard to trade agreement ratification. He reported that negotiation of the controversial 12-country Trans-Pacific Partnership (TPP) had concluded and that Congress, among other entities, was reviewing it. Mr. Snyder said that negotiation of the Transatlantic Trade and Investment Partnership (T-TIP) between the U.S. and EU had slowed due to significant disagreement among various industries. Regarding a proposed Trade in Services Agreement (TiSA), he said it was important to establish balance between market access and maintaining strong solvency and other standards.

Mr. Snyder also commented on bi-lateral trade talks, including those involving China and Brazil, and on the importance of state legislative participation as Congress reviews trade language.

Birny Birnbaum of the Center for Economic Justice (CEJ) expressed concern with insurance-related provisions in the TPP. He highlighted the controversial investor state dispute settlement (ISDS) mechanism, saying that it could allow companies to challenge state regulations in international court. He also said that the TPP established protections for pharmaceutical companies that could lead to higher drug prices and that there had been insufficient transparency during TPP negotiations.

Mr. Snyder commented that the TPP included a carve-out for prudential regulation related to financial services and that the ISDS mechanism was important because the administrative procedures acts that exist in the U.S. do not exist in other nations. Mr. Birnbaum then expressed concern regarding the carve-out as related to the ISDS.

PROPOSED 2016 COMMITTEE CHARGES

The Committee considered the following proposed 2016 charges:

- extend NCOIL International Issues Task Force initiatives to ensure that international regulatory discussions (related to capital standards, corporate governance, market conduct, group supervision, covered agreements, etc.) are transparent and do not infringe on successful state-based insurance regulation
- further pursue efforts to ensure that U.S. representatives offer consensus positions overseas that respect and protect the state-based insurance regulatory system
- further educate state lawmakers regarding potential local, national, and global impacts of international regulatory discussions
- analyze implications of the Trans-Pacific Partnership (TPP), Transatlantic Trade and Investment Partnership (T-TIP), and other U.S. trade negotiation efforts and weigh in as appropriate
- monitor developments regarding the EU-U.S. Dialogue Project
- continue to explore activity related to converging U.S. and international accounting standards

At the suggestion of Rep. Botzow and Sen. Morrish, the Committee and Task Force added the following item:

- work with NAIC on international insurance issues impacting state-based insurance regulation

After a motion made and seconded, the Committee unanimously adopted the proposed charges, as amended.

ADJOURNMENT

There being no further business, the Committee adjourned at 2:30 p.m.