

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SPECIAL EXECUTIVE COMMITTEE SESSION
NEW ORLEANS, LOUISIANA
MARCH 3, 2017
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Executive Committee met at the New Orleans Downtown Marriott on Friday, March 3, 2017 at 10:00 a.m.

NCOIL President, Representative Steve Riggs of Kentucky, Chair of the Committee, presided.

Other members of the Committee present were:

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| Asm. Ken Cooley, CA | Asm. Will Barclay, NY |
| Sen. Jason Rapert, AR | Asm. Kevin Cahill, NY |
| Rep. Sam Kito, AK | Sen. James Seward, NY |
| Rep. Deborah Ferguson, AR | Sen. Bob Hackett, OH |
| Rep. Matt Lehman, IN | Rep. Marguerite Quinn, PA |
| Sen. Dan "Blade" Morrish, LA | |
| Rep. George Keiser, ND | |

Other legislators present were:

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| Rep. Lois Landgraf, CO | Sen. Nellie Pou, NJ |
| Rep. Justin Hill, MO | Asm. Andrew Garbarino, NY |
| Rep. John Wiemann, MO | Rep. Lewis Moore, OK |
| Rep. Lois Delmore, ND | |

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Paul Penna, Executive Director, NCOIL Support Services, LLC
Will Melofchik, Legislative Director, NCOIL Support Services, LLC

PRELIMINARY CONSIDERATION OF MODEL ACT TO SUPPORT STATE
REGULATION OF INSURANCE THROUGH MORE INFORMED POLICYMAKING

NCOIL President, Rep. Steve Riggs (KY) thanked Asm. Ken Cooley (CA) for his participation in NCOIL thus far and stated that he is looking forward to more California legislators participating. Rep. Riggs stated that it is in everyone's interest for State lawmakers to be up to date and educated on the complex issues that are discussed at NCOIL meetings. There needs to be a system in place that can improve and ensure a State appropriation for NCOIL membership dues and the travel expenses to attend NCOIL conferences. Asm. Cooley's proposed Model Act is designed to alleviate the concerns NCOIL recruitment targets have when they say "I can't get the money to go to the conference." Rep. Riggs stated that the other two branches of government don't seem to have the same problem— the legislative branch seems to be more into self-flagellation than others.

Asm. Cooley (CA) stated that he sees his proposed Model as in line with the notion that, in generations past, lawmakers have passed statutes conferring great authority to the National Association of Insurance Commissioners (NAIC) to bring forward ideas relevant to the regulation of state-based insurance regulation, and yet now we have lawmakers who have not served for many years and might not know the backstory on some of the NAIC authority. Asm. Cooley stated that he once tried to invite NAIC representatives to come to California and provide a briefing to the Senate Insurance Committee on the work of the NAIC because he knew that a lot of its work product is incorporated by reference into State law and that many of his colleagues were not familiar with that. However, the chief California insurance regulator said no, and nothing ever came of it. Asm. Cooley stated that struck him as anomalous since the executive branch wants the legislative branch to defer its lawmaking power, but would not agree to make educational presentations about its processes.

Asm. Cooley further stated that he has attended NAIC meetings for quite some time and is aware of how it functions. There are robust internal discussions about its work product, but there are members who have taken an oath of office while certain staff members have not and they are involved in policy discussions. And now we've seen the emergence of similar conversations on the international level over what are the right transparency principles with insurance. Accordingly, Asm. Cooley stated that this Model represents the idea that insurance departments should, by some means through the budget process, provide not just a financial process to participate at the NAIC but to make it easier for legislators to participate at NCOIL. Given the nature of the inherent complexity in the legislative and regulatory marketplace in the modern world, this is a timely idea. There are details to be worked out, but there is no doubt that a more educated legislative body would benefit everyone. And there is no comparable entity to NCOIL so this is the best forum for the Model.

Joe Thesing from the National Association of Mutual Insurance Companies (NAMIC) agreed with Asm. Cooley's assertion that insurance is very complex and that NAMIC spends a considerable amount of time trying to educate legislators on the industry and its continuous developments. NCOIL also plays a very vital role in doing so. NAMIC is extremely supportive of Asm. Cooley's Model but would offer a couple of amendments for the industry's and NCOIL's protection. One is that NCOIL is unrelated to the market conduct exam power so it would make more sense to have the funding provisions located in the insurance department's general budget provisions. Second, the language about the funds going towards NCOIL dues and travel expenses needs to be tightened and clarified so that the industry doesn't interpret the language as an open checkbook. For example, language such as "in an amount not to exceed..." could be included. Rep. Riggs asked Mr. Thesing why NAMIC would want "not to exceed" language in that section but not in section 2(C)(ii) dealing with the department of insurance funding NAIC member assessments. Mr. Thesing said that NAMIC had not thought about that but thinks that is worthy of conversation.

Frank O'Brien of the Property Casualty Insurers Association of America (PCI) stated that PCI supports the Model and agrees with NAMIC's comments. PCI looks forward to working on the Model with NCOIL.

Sen. Jason Rapert (AR) stated that in Arkansas, both the Senate and House Insurance Committees Chairs have the authority to approve travel but noted that is not the case in every State. Sen. Rapert supports the Model and stated that there is no question that

the Arkansas Insurance Committees would function better if there were more members participating at NCOIL. Mr. Thesing agreed with Sen. Rapert's statement that one of the big problems is lack of uniformity as to how States fund NCOIL – this Model is a great solution.

Rep. George Keiser (ND) complemented Asm. Cooley in addressing a longstanding problem of NCOIL – stable funding. However, Rep. Keiser stated that he would not support the Model because the issue of NCOIL funding is a State decision. The Model would never pass in North Dakota because many years ago, the Insurance Department had the scenario/language that is set forth in the Model. But the Department made the decision that because the insurance department is basically an enterprise fund, which the revenues generated within the department are used to fund that agency, and the balance is appropriated to the general fund, the appropriations committee has a lot of interest in those dollars. A conscious decision was made that the legislative management level, not the department level, should manage all association expenses - NCSL, CSG, NCOIL, etc. The bottom line is that North Dakota had what is in the Model already and therefore won't introduce something it already opposes.

Rep. Lois Landgraf (CO) stated that she does not know if the Model would pass in Colorado but she supports it. Rep. Landgraf also stated that if nothing else it would bring awareness to NCOIL.

Mr. Thesing asked Rep. Keiser if there is State oversight in North Dakota on joining and participating in the NAIC? Rep. Keiser stated that basically what's in the Model is in North Dakota's code regarding the NAIC. But the NAIC is not guaranteed funding out of their department, it's in the department budget which is approved by the legislature.

Rep. Matt Lehman (IN) stated that he agreed with Rep. Keiser's statement that some States will not adopt this Model, but also noted that some States may be looking for a mandate like this. Rep. Lehman also stated that NCOIL dues (\$10,000) are "budget dust" compared to those for NCSL, CSG, etc.

Birny Birnbaum from the Center for Economic Justice (CEJ) stated that CEJ strongly supports NCOIL's involvement with NAIC and vice versa. Accordingly, CEJ supports proper State funding of both organizations. Mr. Birnbaum stated, however, that the issue of Incorporation by Reference (IBR) needs to be addressed more directly, not through this Model. Mr. Birnbaum stated that the Model also blurs the line between the executive and legislative branches. He asked why can't the legislature budget funds for NCOIL involvement directly? The Model seems like NCOIL is asking an administrative agency to fund the legislative's policy work. A better way to raise awareness of NCOIL funding might be a Model or Resolution that simply states State legislatures should/need to budget for NCOIL dues/expenses. Asm. Cooley stated that in the realm of insurance regulation, the intertwined nature of the legislative and executive branches is arguably in a class by itself. Mr. Birnbaum asked how about asking NAIC to fund NCOIL's participation in a more robust manner? Asm. Cooley said that is not a bad idea and views this special Executive Committee session as the beginning of a broader discussion on NCOIL funding.

Sen. James Seward (NY) stated that Mr. Birnbaum's suggestion of asking the NAIC for funding is intriguing. Sen. Seward supports the Model despite reservations of it passing in New York because it is a good backstop to maintain ongoing involvement of State

legislators with NCOIL. It makes sense to have the funding come out of the Department's budgets which are funded by industry assessments because it's in the industry's interest to have sound State insurance legislation.

Rep. Riggs stated that if the purpose is to secure more informed legislative oversight, then in section 2(C)(iii), instead of "seek appropriation" it should say "make appropriation." Asm. Cooley did not have a problem with that suggestion. Rep. Riggs also stated that at NAIC meetings, there are several people sent by State executive and legislative branches – some States send 5 or 10 people. This Model only considers expenses for the Chairmen and Ranking Members of the Insurance Committees so perhaps that language should be broader. Asm. Cooley agreed and was open to considering a revised draft either during an interim committee conference call or at the Summer Meeting in Chicago. Rep. Keiser agreed with seeking broader language to have people attend NCOIL besides those mentioned in the Model, particularly a legislator from the Appropriations Committee. Rep. Justin Hill (MO) and Asm. Cooley agreed.

ADJOURNMENT

There being no further business, the Committee adjourned at 10:45 a.m.