

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
EXECUTIVE COMMITTEE
HILTON HEAD, SOUTH CAROLINA
MARCH 4, 2005
DRAFT MINUTES

The National Conference of Insurance Legislators (NCOIL) Executive Committee met at the Hilton Oceanfront Resort in Hilton Head, South Carolina, on Friday, March 4, 2005, at 5:15 p.m.

Rep. Craig Eiland of Texas, NCOIL President, presided.

Other members of the Committee present were:

Rep. Pat Patterson, FL
Sen. Bill Brady, IL
Rep. Shirley Bowler, LA
Rep. Joe Hune, MI
Sen. Alan Sanborn, MI
Rep. Fulton Sheen, MI
Sen. Pam Redfield, NE
Rep. Don Flanders, NH
Sen. Neil Breslin, NY
Assem. Nancy Calhoun, NY
Sen. William J. Larkin, Jr., NY
Sen. James Seward, NY
Rep. George Keiser, ND
Sen. Jerry Klein, ND
Sen. Harvey Tallackson, ND
Rep. Frank Wald, ND
Rep. David Evans, OH
Sen. Jay Hottinger, OH
Rep. Geoff Smith, OH
Rep. Robert Godshall, PA
Rep. Tony Melio, PA
Rep. Brian Kennedy, RI
Rep. Dan Tripp, SC
Rep. Craig Eiland, TX
Rep. Larry Taylor, TX
Sen. Ann Cummings, VT
Rep. Kathleen Keenan, VT
Rep. Gini Milkey, VT
Rep. Mark Young, VT

Other legislators present were:

Sen. Nancy Sullivan, ME

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Director of Legislative Affairs & Education,
Property-Casualty Insurance
Paul Donohue, NCOIL Director of State-Federal Affairs
Franses Liebich, NCOIL Director of Legislative Affairs & Education,
Health, Life, and Workers' Compensation Insurance

MINUTES

The Committee voted unanimously to approve the minutes of its November 19, 2004, meeting and its November 20, 2004, special meeting in Duck Key, Florida.

EXECUTIVE COMMITTEE NOMINATIONS

Rep. Parke nominated Sen. Bill Brady of Illinois to the Executive Committee. The motion was seconded and passed unanimously.

ADMINISTRATION

FINANCIALS

Rep. Young said that he had met with the auditor as one of his duties as Budget/Audit Committee Chair and reported that he was satisfied with the bookkeeping of Nolan Associates.

Upon a motion, duly made and seconded, the Committee voted unanimously to accept:

- December 30, 2004, NCOIL financials
- December 30, 2004, Insurance Legislators Foundation financials
- December 30, 2004, Almanac financials

Ms. Nolan reported that the year 2004 budget had improved from that of the previous year 2003 to reflect a solid gain. She said that many of the initiatives put in place for 2004 were responsible for that gain.

NON-CONTROVERSIAL CALENDAR

Rep. Eiland presented the non-controversial calendar as follows:

Health Insurance Committee:

- Send a letter to Congress renewing NCOIL opposition to association health plans (AHPs)

Life Insurance Committee:

- NCOIL *Long-Term Care Tax Credit Model Act*

State-Federal Relations Committee:

- NCOIL *Exhaustion of Administrative Remedies Model Legislation*

Workers' Compensation Insurance Committee:

- *Resolution Supporting OSHA Ergonomic Guidelines for Nursing Homes*, as amended

Upon a motion made and seconded, the Committee voted unanimously to approve the non-controversial calendar.

COMMITTEE REPORTS

FINANCIAL SERVICES & INVESTMENT PRODUCTS COMMITTEE

Rep. Hune, chair of the Financial Services & Investment Products Committee, reported that the Committee had heard reports on:

- issues related to financial services products offered by banking and insurance and the regulatory impact
- predatory and payday lending
- regulation of variable annuities
- privatization of Social Security
- tax incentives for variable annuities
- pharmacy benefit managers
- discussion of issues related to Sarbanes-Oxley

Rep. Young moved that NCOIL send, by letter or resolution, an opposition to the NAIC's proposal to subject mutual and other non-publicly traded insurance companies to the requirements of Sarbanes-Oxley by amending the NAIC *Model Audit Rule*. Rep Young said that NAIC had a working group that was proposing to enforce Sarbanes-Oxley on mutual and other small non-publicly trade insurance companies, which he said contradicted the original intent of Sarbanes-Oxley. He also said that many states incorporated changes to the NAIC *Model Audit Rule* without legislative consideration of those revisions.

Upon a motion, duly made and seconded, the Executive Committee voted unanimously to prepare a letter to the NAIC working group to oppose subjecting mutual and other non-publicly traded insurance companies to the requirements of Sarbanes-Oxley through amendment to the NAIC *Model Audit Rule*. The Committee voted that Rep. Eiland should send the letter on behalf of the full NCOIL Executive Committee.

HEALTH INSURANCE COMMITTEE

Rep. Smith, chair of the Health Insurance Committee, reported that the Committee had:

- postponed indefinitely consideration of a proposed *Drug Retail Price Disclosure Model Act*
- postponed indefinitely consideration of a proposed *Resolution Encouraging Congress to Pass Legislation Providing Safe, Accessible, and Affordable Prescription Drugs*

- postponed indefinitely consideration of a proposed *Resolution Encouraging Canada to Continue to Provide Safe, Affordable Prescription Drugs to United States Citizens*
- heard a report on pharmacy benefit managers
- heard an update on alcohol-related trauma injuries and insurance coverage issues
- heard an update on association health plans (AHPs)
- voted unanimously to renew an NCOIL letter to Congress in opposition to federal legislation allowing AHPs to be exempt from state insurance laws

Rep. Smith said that the Committee had indefinitely postponed the two resolutions regarding drug importation because of significant concerns regarding the safety and efficacy of drugs imported by mail-order means.

INTERNATIONAL INSURANCE ISSUES COMMITTEE

Rep. Young, acting chair of the International Insurance Issues Committee, said that the Committee had heard reports on:

- recent activity between the International Association of Insurance Supervisors (IAIS) and the NAIC
- the European Union and the United States as related to insurance matters
- international accounting standards
- issues related to NAFTA
- international life settlements market

LIFE INSURANCE COMMITTEE

Rep. Taylor, chair of the Life Insurance Committee, reported that the Committee had voted unanimously to adopt, with amendments to be considered by the Executive Committee, a proposed *Resolution Opposing the Expansion of State Insurable Interest Laws that Permit Private Investors to Purchase Life Insurance on the Lives of Unrelated Individuals*. He said that the resolution opposed efforts to expand state insurable interest laws to permit charities, which otherwise have legitimate insurable interests in donors, to allow investor groups to use those interests primarily for private investment purposes.

Rep. Taylor read proposed amendments to the resolution, which he said would clarify that resolution was not intended to apply to life settlements policies. He said the Life Insurance Committee had voted to refer amendments to the Executive Committee in order allow time to develop the proposed language.

The Executive Committee voted unanimously to adopt the proposed resolution, as amended.

Rep. Taylor said the Committee also had:

- moved for further consideration a proposed *Model Act Enabling States to Create Partnership for Long-Term Care Programs*

- moved for further consideration a proposed *Model Act Implementing State Partnership for Long-Term Care Programs*
- readopted the NCOIL *Long-Term Care Tax Credit Model Act*

PROPERTY-CASUALTY INSURANCE COMMITTEE

Rep. Keiser, chair of the Committee, reported that the Committee had held a special hearing on proposed claims database model legislation. He said that legislators had made progress refining certain provisions of the proposed legislation and that interested parties had until April 1 to submit further comments on the draft model act, particularly regarding 1) treatment of claims without payments (CWOPs) and 2) the length of time an insurer would have to use claims information after having issued a coverage binder. He continued that the Committee would actively pursue consideration of the proposal following that time.

Rep. Keiser said that the Committee had held a joint meeting with the Health Insurance Committee regarding a proposed *Patient Safety Model Act*. He stated that legislators had chosen, among other things, to remove a section in the model regarding state medical boards and to keep a provision in the bill that would make medical-error reporting mandatory. A proposed amendment, he explained, would have made such a reporting system voluntary.

Rep. Keiser concluded by saying that the Committee had voted to renew consideration of a proposed *Certified Aftermarket Crash Parts Model Act* and to hold a hearing on the issue at the July Summer Meeting. He noted that NCOIL had first considered the proposal several years ago and had deferred the model law until the 2005 Spring Meeting in order to allow time for NCOIL consideration of other issues.

WORKERS' COMPENSATION INSURANCE COMMITTEE

Sen. Cummings, acting chair of the Workers' Compensation Insurance Committee, reported that the Committee had unanimously adopted a *Resolution Supporting OSHA Ergonomic Guidelines for Nursing Homes*, which she said encouraged nursing homes and related facilities to follow guidelines proposed in the *Guidelines for Nursing Homes: Ergonomics for Prevention of Musculoskeletal Disorders*, issued in 2003 by the Department of Labor, Occupational Safety and Health Administration (OSHA). She said the guidelines were intended to ensure the safety of the residents and their caregivers.

Sen Cummings said the Committee also had heard:

- a report on the South Carolina workers' compensation insurance system
- an update on the workers' compensation insurance market
- a discussion on issues regarding professional employment organizations (PEOs)

TASK FORCE ON TERRORISM

Assem. Lafayette, chair of the Task Force on Terrorism, reported that the Task Force had heard reports on the current legislative status of TRIA, which is set to expire on December 31, 2005. He said there was a consensus among industry and legislators that continuation of the protections afforded by TRIA was necessary for our country's economic well-being.

Assem. Lafayette reported that it was the recommendation of the Task Force that NCOIL send another letter reaffirming support for TRIA similar to the one that NCOIL previously sent out.

Upon a motion made and seconded, the Executive Committee voted to reaffirm NCOIL support for TRIA reauthorization by sending a letter to key federal lawmakers re-transmitting an NCOIL *Resolution Regarding Extending TRIA*, adopted in July 2004.

STATE-FEDERAL RELATIONS COMMITTEE

Sen. Breslin, acting chair of the State-Federal Relations Committee, reported that the Committee had heard:

- an update on efforts and ideas to defeat the SMART Act
- a report on implementation of the NAIC Interstate Insurance Product Regulation Compact
- an update on implementation of the joint NCOIL-NAIC *Market Conduct Surveillance Model Law*
- a report on issues related to the State Unemployment Tax Act (SUTA)

Sen. Breslin also reported that the Committee had readopted the NCOIL *Exhaustion of Administrative Remedies Model Legislation*.

OTHER MEETINGS

ARTICLES OF ORGANIZATION & BYLAWS REVISION COMMITTEE

Rep. Eiland reported that the Committee had discussed issues related to membership on the NCOIL Steering Committee, which he said was comprised of NCOIL officers and committee chairs and had authority to make policy decisions for the organization between NCOIL conferences. Rep. Eiland said that the Bylaws Committee had determined not to take action at this time.

Rep. Eiland further reported that the Committee had discussed, among other things, membership on NCOIL committees, particularly regarding the number of committee members represented from any one state. He said that legislators had not taken action on the matter.

BUSINESS PLANNING COMMITTEE

Rep. Eiland reported that the Committee had discussed future sites for NCOIL meetings and noted that the 2005 Summer and Annual Meetings would be held in Newport, Rhode Island, and San Diego, California, respectively. He said the Committee had recognized NCOIL's successful dues collection this year, among other items.

INSURANCE LEGISLATORS FOUNDATION BOARD

Ms. Thorson reported that the Board had voted to pursue a possible ILF study on auto insurance best practices, including roundabouts, passenger restrictions for younger drivers, red-light cameras, and black boxes. She said that such a study would be done in collaboration with the National Highway Traffic Safety Administration (NHTSA), which investigates the issue extensively.

Ms. Thorson also reported that NCOIL staff had met recently with representatives of the Federal Emergency Management Agency (FEMA) regarding helping FEMA implement reforms, enacted by Congress last fall, to the National Flood Insurance Program (NFIP). In particular, she said that Congress now required FEMA to incorporate flood insurance training requirements into state agent licensing programs. She said that because FEMA had no authority over state licensing programs, the agency was asking the help of state legislators and regulators in order to execute the new mandate. Ms. Thorson noted that FEMA already had many of the necessary NFIP trainers in place, which she said should significantly ease states' administrative and financial responsibilities. She said that any official collaboration with FEMA would be channeled through the ILF, as the 2002 *Legislators' Guide to Flood Insurance* had been.

Upon a motion made and seconded, the Executive Committee adopted the above Committee reports.

OLD BUSINESS

ISSUES RELATED TO PROPOSED APPROVED LIST OF REINSURERS MODEL ACT

Rep. Eiland reminded the Committee that in 2003 the International Insurance Issues Committee had adopted the proposed model act and referred it to the Executive Committee for its consideration. He said that the Executive Committee subsequently held a hearing on the issue and adopted a resolution that encouraged the NAIC to complete a timely review of credit for reinsurance issues and to report its findings to NCOIL by July of 2004. Rep. Eiland said that ongoing meetings related to non-U.S. reinsurance collateral requirements had delayed definitive findings by the regulators. He said that the proposed model act would provide for reduced collateral requirements for non-U.S. reinsurers that met certain financial solvency criteria.

Rep. Eiland said that the Executive Committee would hold a special hearing on the proposed model law during the upcoming NCOIL Summer Meeting. He said the hearing would pave the way for further Committee consideration later this year.

Commissioner James Poolman (ND) reported that the NAIC's Reinsurance Task Force took the collateralization issue off the table last year and that, in its place, NAIC formed an ad hoc group of regulators interested in the subject. He said the group was trying to bring interested parties together in hopes of crafting a compromise position. He noted that regulators had not yet reached consensus on the issue.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:30 p.m.