

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SPECIAL EXECUTIVE COMMITTEE MEETING
DUCK KEY, FLORIDA
NOVEMBER 20, 2004
DRAFT MINUTES

The Executive Committee of the National Conference of Insurance Legislators conducted a special meeting at Hawk's Cay Resort, Duck Key, Florida, on November 20, 2004, at 11:40 a.m.

Sen. Steven Geller of Florida, NCOIL President, presided.

Other members of the Committee present were:

Sen. Joe Crisco, CT
Rep. Terry Parke, IL
Rep. Robert Damron, KY
Rep. Shirley Bowler, LA
Rep. Karen Carter, LA
Sen. Mike Bishop, MI
Rep. Stephen Ehardt, MI
Rep. Joe Hune, MI
Sen. Alan Sanborn, MI
Rep. Fulton Sheen, MI
Rep. Greg Davids, MN
Rep. Dan Ward, MO
Sen. Carroll Leavell, NM
Assem. Nancy Calhoun, NY
Rep. George Keiser, ND
Sen. Duane Mutch, ND
Rep. Frank Wald, ND
Sen. Jay Hottinger, OH
Rep. Geoff Smith, OH
Sen. David Bates, RI
Rep. Brian Kennedy, RI
Sen. William Walaska, RI
Rep. Craig Eiland, TX
Rep. Gene Seaman, TX
Rep. Larry Taylor, TX
Del. Harvey Morgan, VA
Sen. Ann Cummings, VT
Rep. Gini Milkey, VT
Rep. Mark Young, VT
Sen. Frank Deem, WV

Other legislators present were:

Rep. Susan Westrom, KY
Rep. Scott Hummel, MI

Others present were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Director of Legislative Affairs and Education,
Property-Casualty and Workers' Compensation Insurance
Franesa Liebich, NCOIL Director of Legislative Affairs and Education,
Health and Life Insurance

ADMINISTRATION

Sen. Crisco, Chair of the Connecticut Senate Insurance Committee, and Sen. Bishop, Chair of the Michigan Senate Insurance Committee, were appointed to the Executive Committee.

Sen. Geller thanked Rep. Ward for his service to NCOIL.

Rep. Ehardt resigned from the Executive Committee, informing Committee members that, due to being term-limited, he could no longer be a part of NCOIL. He thanked the organization for its work over the years.

Rep. Sheen nominated Rep. Hummel to replace Rep. Ehardt on the Executive Committee. The Committee voted unanimously in support of this motion.

Ms. Nolan presented proposed 2005 NCOIL budget information. Upon a motion made by Rep. Wald and seconded by Rep. Young, the Committee voted unanimously to approve the proposed 2005 budget.

Sen. Geller reported that the Committee nominated the following persons as 2005 NCOIL officers:

President:	Rep. Eiland
Vice President:	Rep. Wald
Secretary:	Rep. Sanborn
Treasurer:	Rep. Kennedy
Executive Committee Chair:	Sen. Seward

Upon a motion made by Sen. Geller and seconded by Rep. Keiser, the Committee voted unanimously to accept the report of the Nominating Committee.

STATE MODERNIZATION AND REGULATORY TRANSPARENCY (SMART) ACT

Sen. Steven Geller said that NCOIL must make a fundamental decision on how it should proceed as an organization with respect to the development in Congress of the SMART Act. He said NCOIL must choose between taking a seat at the “mythical” table and negotiating the SMART Act’s provisions, with the understanding that NCOIL would ultimately lend support to the Act; or, in essence, walking away from the table to express that the SMART Act could never be acceptable to the organization. He noted that between the last meeting and the current one, the NCOIL officers and chairs had decided to pursue the second option—to “draw a line in the sand...” and formally oppose the SMART Act. He further elaborated on negotiations regarding the SMART Act, positions of various interested parties, and why state-based regulation of insurance was threatened by the SMART Act.

Sen. Geller informed members that NCOIL officers and chairs had instructed him to send Congressman Michael Oxley (R-OH) a letter expressing NCOIL opposition to the SMART Act. He said that now the Executive Committee must provide instruction to either ratify the interim position or to change positions and seek to join in SMART Act negotiation.

Rep. Parke moved to codify the position previously taken by the officers and chairs and to send a new letter dated November 20, 2004, re-stating NCOIL’s opposition to the SMART Act. The motion was duly seconded.

Sen. Geller discussed NAIC’s position regarding the SMART Act, based on a conversation he had with Florida Insurance Commissioner Kevin McCarty. He said the NAIC felt the bill had a good chance of passage and that they wanted to be involved in its development. He said that Commissioner McCarty felt that, at the end of the day, NAIC would oppose the bill.

Rep. Eiland said that Texas Insurance Commissioner Montemayor was opposed to the SMART Act as currently drafted because it would usurp state authority, preempt state laws, potentially threaten premium taxes, and impact insurance departments and other officials, such as governors and attorneys general.

Rep. Keiser said North Dakota Insurance Commissioner James Poolman was opposed to the SMART Act based on states’ rights preemption and for many of the same reasons identified by Rep. Eiland.

Sen. Sanborn said Michigan Insurance Commissioner Linda Watters was opposed to the SMART Act. He further said the Michigan delegation to NCOIL will also oppose the SMART Act.

Sen. Frank Deem said he believed West Virginia Insurance Commissioner Jane Cline opposed the SMART Act, but that she felt it would be better to have a seat at the table than not be involved.

Rep. Bowler said her Commissioner supports some parts of the SMART Act, such as uniformity and rate deregulation, but not others.

Del. Morgan indicated that Virginia Insurance Commissioner Al Gross felt the NAIC *Insurance Regulatory Modernization Action Plan* is superior to any result that the SMART Act might achieve.

Rep. Damron indicated the Kentucky Insurance Department would not support the SMART Act.

Sen. Geller urged members to speak with their commissioners and then asked for debate on the issue at hand: Should NCOIL participate in the SMART Act's drafting or remain uninvolved?

Rep. Keiser reminded members that NCOIL's mission is to advocate for state-based insurance regulation. He said that NCOIL was not a part of the discussion that led to creation of the SMART Act proposal, and he urged members to support the motion offered by Rep. Parke opposing the SMART Act.

Rep. Eiland indicated his support of the motion. He said NCOIL must get governors and attorneys general involved in the effort to oppose the SMART Act. He offered examples of how he felt state laws would be usurped pursuant to SMART Act provisions.

Rep. Kennedy said that at the September 2004 NAIC meeting, he and Rep. Wald spoke regarding NCOIL's position on the SMART Act. He said he had expressed concern that state laws would be usurped under the SMART Act and that states would lose premium taxes if the SMART Act were to be enacted. He supported the motion offered by Rep. Parke opposing the SMART Act.

Sen. Bates expressed concern about optional federal charters, indicating that they were a larger concern than the SMART Act. He said he would not sign the letter in opposition to the SMART Act.

Rep. Bowler said the earlier letter was appropriate but also indicated that she would prefer to continue future dialogue, rather than draw such a line in opposition.

The Committee voted in favor of the motion by Rep. Parke to codify the position previously taken by the officers and chairs and to send a new letter dated November 20, 2004, restating the position of NCOIL in opposition to the SMART Act.

SAMPLE LETTER TO GOVERNORS

Rep. Eiland apprised committee members of a sample letter in opposition to the SMART Act for use by NCOIL members to send to governors and other state public officials. He said the letter would be e-mailed to members.

Rep. Eiland also notified members that a conference call would be held subsequent to the December NAIC meeting to determine how to proceed on draft legislation addressing the broker compensation issue.

Rep. Carter asked, in regard to the letter being sent to Congress, how NCOIL would continue its lobbying effort.

Sen. Geller said that NCOIL members would also be contacting governors, attorneys general, legislative delegations, and congressional leaders on the issue.

Rep. Kennedy suggested NCOIL contact Senate and House chairs in non-NCOIL member states.

Rep. Eiland said NCOIL would also attempt to get members of NCOIL states that have representatives on the Congressional Financial Services Committee to send the letter individually to those members.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:45 p.m.