This report will present a brief synopsis and then a more detailed report of action taken at the National Conference of Insurance Legislators (NCOIL) Spring Meeting in Charleston, South Carolina, from February 28 through March 3, 2002.

At the meeting, legislators focused on rate modernization, terrorism insurance coverage, genetic discrimination, certified aftermarket crash parts, class action reform, credit scoring, and financial modernization.

More than 230 state legislators, insurance regulators, and industry and media representatives attended the meeting.

SYNOPSIS

At the NCOIL Spring Meeting, legislators:

        adopted amendments to the model NCOIL *Property/Casualty Insurance Modernization Act*;

        adopted amendments to the NCOIL *Resolution on the Regulation of Financial Institutions;*

        rejected proposed amendments to the NCOIL *Resolution in Support of Repealing Surplus Lines Licensing Bonds;*

        considered a proposed *Certified Aftermarket Crash Parts Model Act*;

        considered a proposed NCOIL *Class Action Model Legislation*;

        discussed a proposed NCOIL*Genetic Discrimination Model Act*;

        participated in a general session on the crisis in health care;

        participated in a general session on credit scoring; and

        participated in a general session on insurance and terrorism.

DETAILED REPORT

NCOIL PROPERTY/CASUALTY INSURANCE MODERNIZATION ACT

            Legislators adopted amendments to the model NCOIL *Property/Casualty Insurance Modernization Act*, which NCOIL originally adopted on July 13, 2001.  The amendments:

        add a drafting note to the Section 3(L) definition of a rating market that would allow states to take into account their particular insurance market environments when establishing a rating territory, including considering geographic areas smaller than a statewide market; and

        remove provisions in Section 5(A) that would have required a commissioner to explain actions needed to restore market competition.

            The Property-Casualty Insurance Committee adopted and referred four other amendments to the Executive Committee, which tabled them until the NCOIL Summer Meeting.  Those amendments would:

        require commercial insurers to submit informational filings, adding in a drafting note that a state could disregard such a provision if it made state law more restrictive;

        delete Section 8(D), a provision that addresses public access of filed information;

        allow policyholders to cancel policies with disapproved rates without penalty; and

        delete two provisions: one that authorizes a commissioner to exempt an insurer from conflicting actions under other laws, and another that declares exclusive governance of the Act.

            The model establishes a use-and-file rate regulatory system for personal lines of insurance; a no-file system for commercial lines; and an exemption from rate and regulatory requirements for sophisticated commercial insurance providers.

NCOIL RESOLUTION ON THE REGULATION OF FINANCIAL INSTITUTIONS

Legislators adopted amendments to the NCOIL *Resolution on the Regulation on Financial Institutions*, which NCOIL originally adopted on July 11, 1997.  The amendments updated the resolution to reflect the 1999 Congressional enactment of the Gramm-Leach-Bliley Act (GLBA).  The resolution remains opposed to any Congressional legislation that would preempt state laws regulating the business of insurance.

NCOIL RESOLUTION IN SUPPORT OF REPEALING SURPLUS LINES LICENSING BONDS

Legislators rejected proposed amendments to the NCOIL *Resolution in Support of Repealing Surplus Lines Licensing Bonds*, which NCOIL originally adopted on November 16, 2001.  The proposed amendments would have allowed states to require surplus lines licensing bonds for states’ resident brokers.  The resolution, as originally adopted, endorses the repeal of all state surplus lines licensing bond requirements.

CERTIFIED AFTERMARKET CRASH PARTS

            Legislators participated in a Property-Casualty Insurance Committee hearing on a proposed *Certified Aftermarket Crash Parts Model Act.*Though the P-C Insurance Committee adopted the model on November 16 during the 2001 Annual Meeting, the Executive Committee remitted the act to the P-C Committee, citing a need for further discussion.

At the hearing, legislators received testimony from, among others, representatives of the aftermarket crash parts industry, car companies, and the property-casualty insurance industry.  Following the hearing, the Property-Casualty Insurance Committee discussed the proposed legislation and voted to defer further consideration until the NCOIL Summer Meeting in order to give the Committee more time to evaluate the issue.  The model would:

             provide that all certified aftermarket crash parts used to repair a motor vehicle were suitable replacement parts;

             require a body shop or insurance estimate to indicate the use of certified aftermarket crash parts and to identify the parts’ manufacturers, if possible; and

             also apply to leased or financed cars.

CLASS ACTION REFORM

Legislators considered proposed class action reform model legislation, but tabled it for further discussion at the NCOIL Summer Meeting.  The proposed model legislation intends to correct abuses in the prosecution of class actions and would apply to all regulated entities, not just insurers.  The proposed model legislation would:

         provide an insurer or any other regulated entity with a rebuttable presumption that it was not liable if the alleged harmful practice had implicit or explicit approval from the proper regulatory authority at that time;

         deny separate court of law action for a complainant that had received a relief award by an administrative agency, when a state agency jurisdiction was involved;

         provide for the suspension of discovery during a motion to dismiss class certification unless the court found the discovery necessary to prevent undue prejudice; and

         set up rules under which the court may limit the size or waive the use of supersedeas bonds in certain class actions and require a defendant to post a supersedeas bond when appealing a court decision finding liability.

GENETIC DISCRIMINATION

Legislators considered a proposed NCOIL*Genetic Discrimination Model Act*that was  based on an Oregon bill, H.B. 2267.  The model would:

        apply to life and disability insurance;

        prohibit an insurer from requesting or using genetic information with relation to issuing, renewing or canceling a policy; and

        still allow an insurer to use family history when issuing policies.

The model would make specific provisions for policies in excess of $100,000.  Those provisions would allow an insurer to:

        ask the applicant if he or she had had a genetic test;

        use the results of that genetic test; and

        deny coverage if an applicant refused to divulge that information.

The model would also provide for the creation of a list of catastrophic diseases and related genes that insurers could use to determine risk when issuing coverage.  A listed gene has an 80 percent chance of developing into its correlating disease.  The resulting disease must have a 50 percent mortality rate.

Legislators will discuss the issue further at the NCOIL Summer Meeting.

HEALTH CARE CRISIS

Legislators participated in a general session entitled *Crisis in Health Care: What Can Legislators Do?*  The panel discussion, moderated by Rep. George Keiser (ND), focused on solutions to current problems in the health care system and addressed issues including Medicare reimbursement and personal medical funds.  The panel featured:

         Larry Levitt, vice president & director, The Henry J. Kaiser Family Foundation;

         Sandy Marks, assistant director of federal affairs, American Medical Association.

         Kate Sullivan, director of health care policy, U.S. Chamber of Commerce; and

         Kenneth Linde, president & CEO, Destiny Health.

CREDIT SCORING

Legislators participated in a general session entitled *Credit Scoring: An Unfair Practice?* The panel, moderated by Rep. Andrew Richner (MI), debated whether fairness to policyholders was impaired when insurers used a credit-based score to influence rates, renewals, and rejection notices.  The panel featured:

         Commissioner James Bernstein, Minnesota Department of Commerce;

         Eddy Lo, client and regulatory affairs manager, Fair, Isaac and Company;

         Birny Birnbaum, executive director, Center for Economic Justice (CEJ);

         Lynn Knauf, policy manager, Alliance of American Insurers (AAI); and

         Cloyce Anders, president-elect, Independent Insurance Agents of America (IIAA).

INSURANCE AND TERRORISM

Legislators participated in a general session entitled *Insurance and the Terrorism Threat*.  The panel, moderated by Rep. Terry Parke (IL), focused on state disaster management and recovery, the Congressional response, impacts on specific lines of insurance, and industry forecasts.  The panel featured:

         Anita Knight, Allstate loaned executive, Institute of Business and Home Safety;

         Peter Lefkin, senior vice president, Fireman’s Fund Insurance Company;

         Bruce Ferguson, vice president, American Council of Life Insurers; and

         Dr. Allan Korn, senior vice president, Clinical Affairs/Chief Medical Officer, Blue Cross Blue Shield Association.

***This report is also available, as are all NCOIL resolutions, model acts, and minutes from the Spring Meeting, on the NCOIL Web site at:***[www.ncoil.org](http://www.ncoil.org/)***.  If you would like to receive additional information regarding any of the issues discussed above, please contact the NCOIL National Office at (518) 449-3210.***

Sincerely,

            William J. Larkin (NY)

            NCOIL President