



NCOILETTER

June 2006

www.ncoil.org

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS

Preserving State Insurance Regulation...

- By interacting with Congress on issues of critical importance to insurance public policy
- By educating state lawmakers on the solutions to their insurance-market crises
- By fostering relationships between state legislators
- By asserting the primacy of state insurance regulation under the McCarran-Ferguson Act of 1945

Inside This Issue:

| | |
|--|---|
| Senate Deals Blow to Enzi Bill | 3 |
| Med Mal Bill Fails in Senate | 3 |
| Interstate Insur- ance Compact Takes Off | 3 |
| NY Assembly Bill Would Restrict Drops in Coastal Exposure | 4 |
| Future NCOIL Meeting Dates | 4 |
| Critical Issues on Summer Meeting Agenda | 4 |

NCOIL TO CONSIDER JOINT NCOIL-NAIC MEGA- CATASTROPHE PLAN, TO PURSUE UNITED EFFORT

Recognizing that the nation must do more to adequately prepare for catastrophic natural events, legislators at the National Conference of Insurance Legislators (NCOIL) July 20 through 23 Summer Meeting in Boston, Massachusetts, will consider a multi-layered system for disaster management. The plan, contemplated as a joint NCOIL-National Association of Insurance Commissioners (NAIC) effort, was announced recently by NCOIL Past President Sen. Steven Geller (FL) and Florida Insurance Commissioner Kevin McCarty.

In unveiling the proposal, Sen.

Geller, who currently serves as chair of the NCOIL Subcommittee on Natural Disaster Insurance Legislation, said, "I am particularly pleased that NCOIL and the NAIC will further their commitment to a nationwide program by examining this proposal at their upcoming meetings."

"NCOIL is a long-time advocate for a national approach, as we recognize that the private insurance and reinsurance markets simply could not handle a \$100 billion event. Unless we act," Sen. Geller said, "Hurricane Katrina could be just a taste of what would happen to our local economies."

(continued on page 2)

STATES TAKE LEAD ON INNOVATIVE HEALTHCARE REFORM

In the face of a growing number of uninsured, as well as federal efforts to preempt state healthcare regulation, legislatures across the country are taking innovative action to make health insurance more accessible to everyday consumers. Unique state programs extend from Vermont and Tennessee to Illinois and Massachusetts.

On May 25, Vermont Governor James Douglas signed into law H. 861, *An Act Relating to Health Care Affordability for Vermonters*. The bill addresses the high costs of chronic diseases and creates a new program, Catamount Health, to provide affordable, comprehensive coverage to those currently uninsured.

Private insurers are invited to participate in Catamount. Beneficiaries will receive premium assistance based on their income level and will not be charged for preventative care or for recommended services aimed at addressing chronic illnesses. The plan will be financed by increases to the cigarette

tax, as well as by an employer assessment and the federal government via a Medicaid waiver.

Tennessee also has enacted comprehensive reform. "Cover Tennessee," Governor Phil Bredesen's proposal, would establish a vol-

(continued on page 2)

NCOIL Schedules Keynote De- bate on Medical Liability Reform

A sure-to-be-lively debate on the need for medical liability reform will take center stage at the Friday, July 21, keynote luncheon of the NCOIL Summer Meeting in Boston. Sherman "Tiger" Joyce of the American Tort Reform Association (ATRA) and a representative of the Association of Trial Lawyers of America (ATLA) will do battle on issues including caps on non-economic/punitive damages, among other items. The event will take place from 12:30 to 1:45 p.m.

***The federal
natural
catastrophe
backstop, funded
by actuarially
sound premiums,
would provide
reinsurance when
insured losses
ranged from \$25
billion to \$50
billion.***

NCOIL

Layer One of the multi-level proposal would require a property insurance checklist that clearly identified coverage limits, would change IRS tax code to allow for insurer tax-deferred catastrophe reserves, and would establish rate structures that promote mitigation. Layer Two would create optional state or regional catastrophe funds to offer reinsurance to the private market at risk-reflective rates and would allow for appropriate building code policies. Finally, Layer Three would institute a federal reinsurance program to offer coverage to state/regional catastrophe funds. The federal backstop, funded by actuarially sound premiums, would provide rein-

surance when insured losses ranged from \$25 billion to \$50 billion.

According to NCOIL President Rep. Frank Wald (ND), the issue is critical to legislators across the country, as all states are exposed to some form of natural disaster. "We look forward to consideration of the draft proposal in July, and we thank Sen. Geller for his tireless work on behalf of NCOIL."

The NCOIL Subcommittee on Natural Disaster Insurance Legislation will convene at the Boston Park Plaza Hotel on July 20, from 9:15 to 10:15 a.m.

At the NAIC Summer Meeting in Washington, DC, earlier this month, regulators voted to expose the draft for a 30-day comment period.

(continued from page 1)

STATES

untary system for purchasing health coverage. The plan includes provisions aimed at covering the working poor, children, and people who have difficulty acquiring a policy. It establishes the Tennessee Center for Diabetes Prevention and Health Improvement in order to provide grants and education regarding diabetes.

"Cover Tennessee" will spread the cost of a policy premium, which is expected to average \$150 per month, between the state, a small employer, and the covered individual. As of now, the individual will assume the employer's share if the employer chooses not to participate, though the state may require small employer contributions in the future. The health-care initiative also creates a state-federal program to insure children, and it establishes a high-risk insurance pool for uninsured adults.

These programs follow significant reforms already underway in Illinois and Massachusetts. Last November, Illinois Governor Rod Blagojevich signed into law a plan to expand the state's Medicaid and Children's Health Insurance Program (CHIP) to provide coverage for every uninsured child in

the state. Parents will contribute to the cost of premiums based on their income, in order to ensure that the insurance products are affordable. The program will take effect on July 1, 2006.

Massachusetts passed landmark legislation in April that, among other things, requires individuals to buy health insurance and creates a Commonwealth Health Insurance Connector to ensure that the coverage is affordable. The bill also increases the age of dependency and allows young adults to purchase specially tailored, low-cost and low-benefit policies.

Employers that fail to contribute to the cost of employee healthcare will be required to pay a \$295 "fair share contribution" per employee per year. Governor Mitt Romney vetoed the employer fee, but the legislature overrode his action.

NCOIL continues to monitor state health insurance reform and related initiatives and will report on the issue on July 21, when the Health, Long-Term Care, and Health Retirement Issues Committee convenes during the NCOIL Summer Meeting in Boston, Massachusetts. The Committee session is scheduled for 8:00 to 9:15 a.m.

(continued from page 1)

SENATE DEALS BLOW TO ENZI BILL

On May 11, the U.S. Senate defeated S. 1955, the *Health Insurance Marketplace Modernization and Affordability Act*, during a key procedural motion. In a vote for cloture, the bill, sponsored by Senators Michael Enzi (R-WY) and Ben Nelson (D-NE), failed to receive the 60 votes necessary to end further debate. The action significantly reduces the chance that S. 1955 will pass the Senate this session.

NCOIL strongly opposes the bill's preemption of important state benefit mandates and rating systems, among other concerns. In a March 14 letter to Senators Enzi and Nelson, legislators also pointed to the potential for

cherry picking of younger, healthier groups at the expense of the older and sicker, as well as the increased possibility for insurance fraud.

NCOIL Secretary Rep. Brian Kennedy (RI) said, "We have worked hard to educate Congress on the negative and potentially unintended consequences of S. 1955 and are encouraged by the recent Senate vote. S. 1955 would have obstructed innovative state efforts to assist the uninsured and would have made health coverage inaccessible for many of our constituents, while usurping state regulatory authority to address each state's unique health care market."

S. 1955 would have obstructed innovative state efforts to assist the uninsured and would have made health coverage inaccessible for many of our constituents, while usurping state regulatory authority to address each state's unique health care market.

MED MAL BILLS FAIL IN SENATE

Kicking off the Senate's "Health Week" last month, two bills that would cap non-economic and punitive damages in medical liability cases each failed to garner the 60 votes necessary to invoke cloture and forestall filibusters. S. 22, the *Medical Care Access Protection Act*, among other things would limit total non-compensatory damages in state and federal malprac-

tice suits to \$750,000. Under the Act, no more than \$250,000 could be recovered from any individual healthcare provider.

S. 23, the *Healthy Mothers and Healthy Babies Access to Care Act*, would establish identical provisions specifically for litigation brought against obstetric/gynecological providers. S. 23 was sponsored by Sen. John Ensign (R-NV), and S. 23 by Sen. Rick Santorum (R-PA).

Opposition fell along party lines, with Democrats calling the bills "political" and challenging the procedure for Senate consideration. Neither proposal had been heard in Committee prior to Health Week. For their part, Republicans said the issue was critical to reducing costs and promoting patient access to healthcare and said Democrats were impeding important reform.

Both bills were based on a 2003 Texas law and follow several years of medical liability legislation passed in the U.S. House.

The **Interstate Insurance Regulatory Compact** for life, disability and annuity insurance products is now up and running.

A June 13 press conference officially launched the system and recognized the critical role that **state lawmakers** played in educating legislatures on the need for the streamlined system. The compact came into being in just over two years, well shy of the seven predicted by some observers. It is based on a more general, 1991 NCOIL proposal.

The NCOIL State-Federal Relations Committee will report on developments regarding compact implementation during its July 20, 1:30 to 2:45 p.m. meeting.

MARKET CONDUCT
Special NCOIL Meeting
Thursday, July 20
2:45 to 4:45 p.m.
NCOIL Summer Meeting

SAVE THE DATE

The NCOIL Summer Meeting

July 20 through 23, 2006*

Boston, Massachusetts

***Please note DATE change**

NCOILetter

Susan F. Nolan, Publisher/Editor

Candace Thorson, Managing Editor
Paul Donohue, Associate Editor
Mike Humphreys, Associate Editor

Simone Smith, Production Assistant
Allyson Wray, Production Assistant
Robert Goodman, Business Manager

Opinions expressed in the *NCOILetter* do not necessarily reflect the views or opinions of the National Conference of Insurance Legislators. The *NCOILetter* is published monthly by Nolan Associates.

Contact the *NCOILetter* at the:

NCOIL National Office:
385 Jordan Road
Troy, NY 12180
(518) 687-0178 (phone)
(518) 687-0401 (fax)
info@ncoil.org

**The NCOIL Office in
Washington, D.C.**

601 Pennsylvania Ave. NW
Suite 900, South Building
Washington, D.C. 20004
(202) 220-3014 (phone)
(202) 330-5004 (fax)
info@ncoil.org

NEW YORK ASSEMBLY BILL WOULD REIGN IN DROPPED COASTAL EXPOSURES

On May 25, the New York State Assembly passed A.B. 10790, which would prohibit an insurer from reducing its homeowners' coverage by more than 20 percent over five years, or by more than four (4) percent per rating territory.

The bill responds to recent decisions by Allstate and other companies to reduce their NY coastal exposures due to higher reinsurance costs, forecasts of another active hurricane season, and perhaps a greater appreciation of the sizeable risk associated with insuring New York City and surrounding territories. Currently, insurers can drop up to four percent of their homeowners' policies statewide without regulatory approval or a with-

drawal plan.

Long Island Assem. Robert Sweeney, sponsor of the bill, and other supporters say it would protect coastal homeowners from losing access to affordable coverage. They argue that without the bill's restrictions, costs for insurance—if it were available at all—would skyrocket.

Insurers feel differently. Among other things, they say that coverage remains available and that tying insurers' hands would only reduce competition and deter companies from entering the market. Higher premiums in coastal areas are appropriate to the risk of loss, they say.

New York's coastal exposure—valued at \$1.9 billion—is the nation's second-highest, just behind Florida.

NCOIL UPCOMING MEETINGS

ANNUAL 2006

November 9 through 12, 2006
Napa Valley, California
Marriott Napa Valley Hotel & Spa

SPRING 2007

March 1 through 4, 2007
Savannah, Georgia
Hyatt Regency Savannah

SUMMER 2007

July 19 through 22, 2007
Seattle, Washington
Sheraton Seattle Hotel & Towers

ANNUAL 2008

November 20 through 23, 2008
Duck Key, Florida
Hawk's Cay Resort

SUMMER 2009

July 9 through 12, 2009
Boston, Massachusetts
Boston Park Plaza Hotel & Towers

ANNUAL 2009

November 19 through 22, 2009
New Orleans, Louisiana
Royal Sonesta Hotel

ON THE AGENDA: NCOIL SUMMER MEETING

Many critical public policy issues are scheduled for legislative consideration during the NCOIL Summer Meeting, including, among others:

- federal efforts to **preempt state insurance regulation**, including a new attempt to enact elements of the State Modernization and Regulatory Transparency (SMART) Act piecemeal
- regulator efforts to amend the procedure for adding new standards to the NAIC **accreditation system**, including incorporating receiver-ship-based provisions into the solvency-based system
- **pharmacy benefit managers (PBMs)**, including a roundtable discussion in which lawmakers hear first-hand whether regulation is needed