

## 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

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## NCOIL'S REP. KEISER TO HOUSE SUBCOMMITTEE: NCOIL INSURANCE SCORING MODEL STRIKES CRITICAL BALANCE

NCOIL Secretary Rep. George Keiser (ND) on May 21 told members of a U.S. House Subcommittee on Oversight and Investigations that an NCOIL insurance scoring model act strikes a critical balance between consumer and other interests and proves that federal legislation to regulate credit-history scores is unnecessary.

Rep. Keiser, noting that 26 states have based their oversight on the 2002 *NCOIL Model Act Regarding Use of Credit Information in Personal Insurance*, acknowledged that credit history may be an effective predictor of risk. He said at the Subcommittee hearing, however, that "NCOIL is clear that insurers should not have free reign. Our group feels strongly that state legislators have a responsibility to shield consumers from potential abuse and to encourage state laws that go beyond a one-size-fits-all approach."

While overviewing development of the NCOIL model law, Rep. Keiser said that important protections include prohibiting adverse actions based on "thin" credit files or on absence of a credit card—language that would benefit a variety of consumers, such as young persons

starting out, the elderly, and new citizens.

Rep. Keiser said in his testimony that the NCOIL model also recognizes "how people may struggle financially after a personal, catastrophic event, such as extended illness or death of a spouse. Extraordinary events of this nature are likely no one's fault—and our laws should not pretend that they are." Insurers under the NCOIL model could give a "pass" to persons impacted by exceptional life events, he explained.

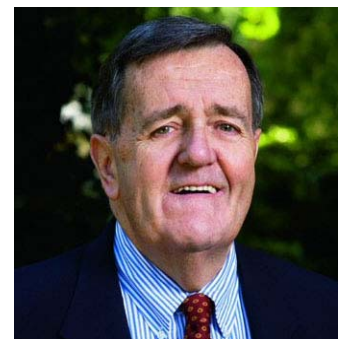
Rep. Keiser said the model sets forth "common-sense restrictions" on how insurers could treat certain data. He said this would include inquiries that credit card companies make before sending out promotional offers, inquiries that occur when a consumer wisely "shops around" for the best deals on auto and home loans, and collection accounts related to medical events.

Pointing to the success of NCOIL-based regulation, Rep. Keiser urged Congress not to preempt state efforts—as contemplated by pending bills that would prevent or prohibit insurance scoring.

"The 26 states around the country that regulate based on

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Attendees at the NCOIL Summer Meeting will enjoy a ***Wit and Wisdom of Mark Shields*** keynote luncheon address on Thursday, July 10, from 11:45 a.m. to 1:30 p.m. Shields—a nationally known columnist and commentator who is perhaps best recognized as former moderator of CNN's *Capitol Gang*—will share first-hand accounts and impressions of the current state of Washington politics and will present them against the backdrop of political history. Shields has written a *Washington Post* column on national politics since 1979 and was a regular on *The MacNeill/Lehrer NewsHour*.



## VIEW FROM THE HILL: NFIP REAUTHORIZATION RACES AGAINST TIME

The Senate finally adopted its version of a *Flood Insurance Reform and Modernization Act* (S. 2284/H.R. 3121) on May 13—six months after the Senate Banking Committee had approved it and despite strong Gulf Coast opposition to reauthorizing any flood program that failed to add wind coverage.

The full-Senate vote on S. 2284 had been in limbo because four Senators—Mary Landrieu (D-LA), David Vitter (R-LA), Thad Cochran (R-MS), and Roger Wicker (R-MS)—had placed holds on the bill in an effort to drum up support for adding wind insurance to the NFIP. The lawmakers had held strong until, under a recent agreement with Senate leadership, they were allowed to bring wind amendments to the floor—where they were soundly rejected in a 74-19 vote. Success would have aligned the bill with the controversial, House-passed H.R. 3121.

Senate approval of S. 2284 moves the only “must pass” insurance legislation of 2008 to a conference committee with the House in order to smooth major differences between the two bills. In a race against time, conferees will seek a compromise—on wind coverage as well as on whether to forgive the NFIP’s nearly \$18 billion debt—before the program expires on September 30.

Because of strong opposition from President Bush—who has threatened a veto—and the insurance industry, which has aligned with consumer and wildlife groups, the plan to expand NFIP to cover wind appears to be on its last gasp. Debt forgiveness, as endorsed by the Senate, remains a toss-up by early estimates.

Not all S. 2284 amendments crashed and burned, however. A manager’s amendment, introduced by Banking Chair Chris Dodd (D-

CT) and Ranking Member Richard Shelby (R-AL), attached a Dodd-sponsored *Commission on Natural Catastrophe Risk Management and Insurance Act* to S. 2284—

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**Because of strong opposition from President Bush...and the insurance industry, which has aligned with consumer and wildlife groups, the plan to expand NFIP to cover wind appears to be on its last gasp.**

### SAVE THE DATE

the NCOIL

### SUMMER MEETING

July 10 through 13

at the Marriott

Marquis

New York, New York

### Interstate Life Compact Gains Speed, Draws New Members

A speed-to-market compact for life insurance and related products gains speed, with eight states considering bills in 2008 that would expand membership in the 31 jurisdiction-strong Interstate Insurance Product Regulation Commission (IIPRC).

The IIPRC addresses what critics of state regulation say is a weakness—the product-approval process. The IIPRC lets an insurer make one filing under one set of national standards and, once approved, offer that product in all Compacting states.

Developed with ongoing NCOIL input, the Compact promotes speedy and cost-effective consumer access, while encouraging global competition. Details are available at [www.insurancecompact.org](http://www.insurancecompact.org).

States with pending bills include:

**CA** (SB 1434)—April Senate hearing; no Assembly companion  
**IL** (HB 676)—in House Rules Committee; no Senate companion  
**LA** (HB 369)—passed House/Senate; awaiting governor’s signature  
**MO** (HB 1691/SB 783)—reported favorably by House and Senate committees

**NJ** (SB 1258)—in Senate; no Assembly companion

**NY** (SB 5053/A 08068)—reported favorably by Senate Committee; Assembly Committee held May 8 hearing

**SC** (HB 3023)—passed House Committee; in Senate Committee

**Washington, DC** (B17-0254)—introduced

## CONGRESS ACTS ON SCHIP, MENTAL HEALTH PARITY, GENETIC TESTING

Comprehensive healthcare reform remains a hot topic among those on the campaign trail, but the 110<sup>th</sup> Congress has taken a more “bite-sized” approach by focusing on a few prominent health issues—including federal SCHIP funding, mental health parity, and genetic testing nondiscrimination.

### SCHIP

In April, the Government Accountability Office (GAO) ruled that the Centers for Medicare and Medicaid Services (CMS) unlawfully bypassed congressional review when it issued an August 17 directive to states regarding expansion of SCHIP.

The directive set new standards, requiring that a state prove it has covered at least 95 percent of eligi-

ble children before extending SCHIP to the less needy. Congressional Democrats and various state officials were outraged by the ruling—arguing that such a mandate is unreasonably high and that the extensive policy change is subject to congressional review.

The GAO ruling, although not legally binding, strengthens the hand of several states challenging the legality of the measure in court—including AZ, CA, IL, MD, NH, NJ, NY, and WA.

Both House and Senate leaders have introduced measures to block the CMS directive.

### Mental Health Parity

The House in March passed H.R. 1424, *The Paul*

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## STATE OF THE STATES—INSIDERS TO DISCUSS HEALTH REFORM AT NCOIL SUMMER MEETING

How are state efforts to reduce the uninsured and underinsured faring? How can states coordinate various players, including doctors, hospitals, insurers, and employers? Is a greater degree of coordination with federal agencies needed regarding Medicaid, Medicare, and SCHIP programs?

NCOIL will explore these issues, among others, during a July 12 symposium entitled *State Health Innovations: What Works? What Doesn't?*

The event will take place during the July 10 through 13 Summer Meeting in New York City.

The symposium, which is scheduled from 8:00 to 9:45 a.m., will be a broad discussion of state activity but will also recognize specific initiatives. Under review will be how to control costs, increase access, and improve the quality and delivery of healthcare.

Invited panelists include Dr. Carlos Flores of the Lawrence Hospital Center; Robert

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### ON THE AGENDA

Legislators will tackle key insurance policy issues at the July 10 through 13 NCOIL Summer Meeting in New York City. The agenda includes, among other items:

- bond insurer downgrades
- federal preemption/optional federal charters (OFC)
- insurance credit scoring
- interstate life insurance compact
- life settlements
- natural mega-catastrophe funds
- physician reimbursement arrangements
- producer licensing uniformity
- reinsurance collateral initiatives
- State Authority Study: implementing recommendations
- state health insurance innovations
- subprime lending and related litigation

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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.

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# NCOIL

## NCOIL'S

the NCOIL model responded effectively to an emerging issue that demanded a public policy response," Rep. Keiser said. "Federal legislation that would set aside these strong laws is unneeded and may actually bring unintended, unfortunate consequences, such as higher rates for consumers who benefit from their good credit."

Other witnesses at the hearing, entitled *The Impact of Credit-Based Insurance Scoring on the Availability and Affordability of Insurance*, represented the Federal Trade Commis-

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sion, the Florida Insurance Department and National Association of Insurance Commissioners, the Consumer Federation of America, the National Fair Housing Alliance, CURE Insurance, the Property-Casualty Insurers Association of America, the Consumer Data Industry Association, as well as a professor from the University of Arkansas.

In general, the NCOIL model prohibits credit history from being the sole factor influencing a personal-lines underwriting or rating decision and provides for use of updated credit data, among other things.

## VIEW

requiring creation of a new expert panel to develop a plan by December 2008 that would ensure availability and affordability of insurance for natural catastrophes.

It's a fair bet that some NFIP bill

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will go to the President before Congress adjourns in September. Another active hurricane season is predicted, and recent weather activity is a reminder of how destructive Mother Nature, in all her forms, can be.

## CONGRESS

*Wellstone Mental Health and Addiction Equity Act*. The bill, which would require health insurers to offer mental health benefits on par with other conditions, parallels similar legislation that passed the Senate in late 2007.

The two bills differ in how they define a mental illness. The House version is more expansive in its coverage requirements, but both seek to remove discriminatory barriers.

The President has indicated that he would sign the Senate version. Analysts contend that the two chambers will continue to work towards agreement on compromise legislation but believe final resolution could be stayed until a new presi-

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dent takes office in January.

### Genetic Nondiscrimination

In what is being touted as a "landmark" achievement, the House and Senate almost unanimously passed a *Genetic Information Nondiscrimination Act* (H.R. 493) in March. The bill prohibits insurers from using genetic data to deny coverage and determine premiums.

Adoption of the legislation culminates 13 years of work. Experts point to dramatic growth in the genetic testing field—offering more opportunities for genetic discrimination—as key to the legislation's ultimate success.

The Bush Administration appears to support the bill—which will not preempt stronger state laws.

## STATE

Graboyes of the National Federation of Independent Business; Jeff Lemieux of America's Health Insurance Plans; Dr. Jeffrey Perkins, a private practitioner; and Karen Pollitz of the Georgetown Public Policy Institute.

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Since 2006, comprehensive reform initiatives have been enacted in three states (3) and proposed in nearly 13 others. More incremental—yet also innovative—plans have been considered in nearly every state.