

After Five Years, Polls Show Slight Change in Affordable Care Act Opinions

The gap between supporters and opponents of the Affordable Care Act (ACA) is narrower than ever, according to a *Kaiser Health Tracking Poll* released on March 19. The poll, conducted on the fifth anniversary of the controversial healthcare law, included the public's response to a case that the U.S. Supreme Court heard in early March, *King v. Burwell*, that challenged whether subsidies should be allowed on federal exchanges.

A Kaiser poll in April 2010, shortly after the Affordable Care Act was passed, found that "46 percent of respondents reported a favorable view of the act while 40 percent reported an unfavorable view." In the most recent Kaiser survey, "43 percent report that they have a favorable view of the

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2015 NCOIL SUMMER MEETING
July 16 to 19, 2015
Indianapolis, IN



NCOIL Supports Policyholder Protection Act as Way to Safeguard Consumers, Preserve State Authority

In line with their long-standing efforts to preserve state insurance authority and to highlight its effective consumer safeguards, NCOIL legislators on March 18 wrote in support of the federal *Policyholder Protection Act of 2015*—calling it a "commonsense" approach in today's challenging financial services environment.

"In a world where financial services firms are diverse and complex," the NCOIL letter—signed by the NCOIL officers—said, "the *Policyholder Protection Act* is a commonsense way to ensure

that funds meant for policyholders are available for policyholders."

The legislation "would preserve state insurance regulators' critical and proven ability to safeguard insurance policyholders when complex financial firms become unstable," the NCOIL officers asserted, and "makes clear that state regulators have the final say in whether the assets of an insurer, however it is structured, should be used to strengthen the finances of an affiliate or other related entity."

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NCOIL Moves Forward with Legislative Toolkit for International Discussions

NCOIL legislators, as part of their effort to preserve state-based regulation in light of initiatives both here and abroad, have entered the next phase in their development of a *Legislative Toolkit* for state advocacy that aims to empower state lawmakers dialoging with federal and global officials.



As per agreement at the NCOIL meeting, mem-

bers of the Task Force's Advisory Council recently submitted proposed updates and other revisions to the *Toolkit* draft offered at the Spring Meeting—in light of the fact that federal and international efforts have evolved rapidly since *Toolkit* materials were first submitted in November. NCOIL staff distributed the proposed changes to the Committee/Task Force for its review and will send the *Toolkit* to legislatures throughout the country at the close of the review period.

NCOIL President Sen. Neil

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act while 41 percent report a favorable view.”

The new poll—which was taken from March 6 to March 12 and has an error margin of plus or minus three percent points—noted that while there is still a partisan divide between respondents who favor the ACA and those who oppose it, this gap has also narrowed. The survey said that while “74 percent of respondents who identified as Republicans viewed the act as unfavorable, 65 percent who identified as Democrats reported a favorable view of the act.” The poll found that people who identified themselves as Independents were actually more divided—with “37 percent reporting an unfavorable view and 47 percent reporting a favorable one.”

Regarding the Supreme Court decision, respondents were asked what would happen if the Supreme Court decided in favor of the plaintiffs—ruling, in other words, that federal exchange subsidies are illegal. The Kaiser poll found that “62 percent of Democrats, Republicans and Independents all said such a result would have a negative impact on the country.” And if the Court declares that federal exchange

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NCOIL Moves Forward with Toolkit...

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Breslin (NY), who testified before Congress on November 18 regarding proposed global capital standards, has made clear that the *Toolkit* is part of NCOIL’s “aggressive effort to join with fellow supporters of state-based insurance regulation to stress that the U.S. approach—while different from approaches in other nations—is effective and time-tested.”

Sen. Dan “Blade” Morrish (LA), chair of the Task Force, is on record describing the *Toolkit* as “one of NCOIL’s most critical initiatives to ensure that state legislators have a strong and clear voice in overseas discussions”—particularly given the complexity of global efforts and

the urgent need to respond.

The *Toolkit* covers key areas of concern—including global capital requirements, group-wide supervision, market conduct, corporate governance, covered

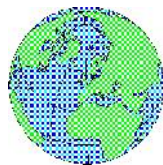
“The Toolkit is part of NCOIL’s ‘aggressive effort to join with fellow supporters of state-based regulation to stress that the U.S. approach—while different from approaches in other nations—is effective and time-tested.’”

agreements, and trade agreements—identified by Task Force discussions in 2014 with members of the Task Force’s State Officials Working Group and the Task Force Advisory Council.

In addition, the *Toolkit* addresses transparency issues at the International Association of Insurance Supervisors (IAIS), which is developing the proposed global standards under debate; includes a glossary of international entities affecting U.S. insurance oversight; and incorporates NCOIL resolutions, letters, and comments to federal and international officials regarding international matters.

The NCOIL International Insurance Issues Committee/International Issues Task Force approved the *Legislative Toolkit* in concept on February 27 during the NCOIL Spring Meeting, followed by Executive Committee approval on March 1.

The NCOIL INTERNATIONAL ISSUES TASK FORCE was created in November 2013 to help ensure that international regulatory discussions do not erode the effective U.S. state-based system and, among other things:



- reaches out to federal, global officials to warn of negative impacts of certain efforts
- partners with state officials through a State Officials Working Group & with consumer, insurer, other representatives through a Task Force Advisory Council
- educates state lawmakers on critical international initiatives and concerns
- works to give state legislators a voice in international dialogues

Insurer Gets “All Clear” to Use Drones

State Farm announced on March 17 that it had become the first insurer to receive Federal Aviation



Administration (FAA) approval to test drones—a.k.a., unmanned aircraft systems (UAS)—for commercial use. The insurer says it will explore drone use to help determine roof damage during the claims process and to respond to

natural disasters. Test and development flights will be at private test sites near Bloomington, IL, where State Farm is based.

According to Reuters on March 22, the FAA has so far approved 48 companies for commercial drone use, out of more than 750 requests. FAA reviews are ongoing.

Premera Health Insurer Announces Cyber-Attack

Premera Blue Cross has been added to the growing list of businesses, including fellow health insurer Anthem, that have fallen victim to cyber-breaches in recent months. On March 17, 2015, the Washington-based Premera issued a statement in which the insurer disclosed that attackers had gained unauthorized access to its IT systems and may have accessed personal information of members, employees, and other individuals with which the health plan does business.

While federal investigators are attempting to determine the source of the breach, the National Association of Insurance Commissioners (NAIC) is said to be “coordinating an action plan” in response to the attack with efforts that could include a multi-state investigation led by

Washington State Insurance Comm. Mike Kreidler. It is estimated that the attack may have exposed the medical and financial information of 11 million consumers. Below are more details, as offered by Premera at www.premeraupdate.com.

> The actual attack on Premera Blue Cross took place on January 29, 2015.

> Those affected include Premera Blue Cross, Premera Blue Cross Blue Shield of Alaska, and affiliate brands Vivacity and Connexion Insurance Solutions.

> Attackers gained access to names, addresses, e-mail addresses, telephone numbers, dates of birth, Social Security numbers, member ID numbers, medical claims information, and bank account information.

> Premera has since hired Mandiant, a leading cyber-security firm, to monitor IT systems and is taking additional steps to resolve system vulnerability issues and to enhance security.

> Premera has offered two years of free credit monitoring and identity theft protection services to anyone who may have been affected by the cyber-attack.

NCOIL in 2015 is exploring cyber-security and insurance concerns, having started with a special Spring Meeting general session in Charleston in which experts offered insight into why cyber-breaches are possible in the first place, what kinds of attacks people should worry about most, and how state and federal officials can and are responding, among other items.

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subsidies are prohibited? According to Kaiser, “65 percent [of respondents] said they felt Congress should pass a law to make people in all states eligible for health insurance subsidies.”

The *Kaiser Health Tracking Poll* is produced annually by The Henry J. Kaiser Family Foundation and is available at www.kff.org. The 2015 survey is based on 1,503 phone interviews with randomly selected adults around the nation, aged 18 and above.

Of Note...

The *Kaiser Health Tracking Poll* released in March also found, among other things, that:

- > 23% of respondents want Congress to expand ACA.
- > 23% want Congress to continue with implementation.
- > 10% want Congress to scale down what ACA does.
- > 30 % support ACA repeal.
- > Unfavorable ACA opinions mostly due to financial concerns (26%), anti-individual mandate (18%) & issues re: gov't. overreach (10%).
- > Positive ACA opinions due mostly to greater access to care/insurance (61%), improve healthcare affordability (10%) & overall benefit to Americans/U.S. (7%).

The extent of cyber-attacks on public- and private-sector entities often is unknown or unreported, but below is a sample of the more than two dozen breaches made public in 2014.



Target	UPS	Yahoo!Mail	P.F. Chang's China Bistro	Neiman Marcus
Google	Apple iCloud		Goodwill Industries Int'l	Dairy Queen Int'l
Michael's	J.P. Morgan Chase		Community Health Services	Home Depot
				eBay

Source: “Cyber Attacks on U.S. Companies in 2014,” The Heritage Foundation, October 27, 2014.

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NCOIL

National Conference of Insurance Legislators

...for the states

D.C. Office:
601 Pennsylvania Avenue N.W.
Suite 900, South Building
Washington, D.C. 20004

National Office:
385 Jordan Road
Troy NY 12180



NCOILetter

Susan F. Nolan, Publisher/Editor
Candace Thorson, Managing Editor
Molly Dillman, Assoc. Editor
Andrew Williamson, Assoc. Editor

Kim Connors, Operations Coordinator
Laurie Williams, Fin. Coordinator

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NCOIL Supports Policyholder Protection Act...

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After reiterating NCOIL's belief that "state officials are the most appropriate arbiters of insurers' financial strength and ability to pay claimants," the NCOIL letter commented that the *Policyholder Protection Act* "wisely recognizes" that caring for consumers should be paramount and that the legislation "holds true to the belief that insurers with strong balance sheets should not be required to shore up, at their own hazard, the finances of less prudent corporate relations."

The letter was signed by NCOIL President Sen. Neil Breslin (NY), Vice President Sen. Travis Holdman (IN), Secretary Rep. Steve Riggs (KY), and Treasurer Sen. Jason Rapert (AR) and was sent in advance of the March 19 introduction of the *Policyholder Pro-*

tection Act—S. 798, which was referred to the Senate Committee on Banking, Housing & Urban Affairs, and H.R. 1478, which was referred to the House Committee on Financial Services.

NCOIL issued its letter to the legislation sponsors: Senator David Vitter of Louisiana, Senator Jon Tester of Montana, Congressmen Bill Posey of Florida, and Congressman Brad Sherman of California.

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