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NCOIL ANNUAL MEETING

December 5—8, 2018

Oklahoma City, OK

NCOIL CONCLUDES SUCCESSFUL 2018 NCOIL SUMMER MEETING IN SALT LAKE CITY

NCOIL concluded a successful 2018 Summer Meeting in Salt Lake City, UT, which included the passage of a Model Towing Act.

"NCOIL continues to be the only organization comprised and run by legislators that drafts insurance and financial service model legislation for the states' to consider" said AR Senator Jason Rapert, NCOIL President. "As we saw at the Summer Meeting, there are many issues that require the attention of insurance state legislators and we are working diligently to accomplish that."

As previously reported, the NCOIL Nominating Committee met to consider applications for the vacant Vice- President position and elected LA Sen. Dan "Blade" Morrish.

The meeting included 277 attendees, 51 legislators, 5 Commissioners – UT. Cmsr. Kiser, Idaho Director Cameron, MS Cmsr. Chaney, HI Cmsr. Ito and MO Csmr. Lindley-Myers and 14 Insurance Departments represented. All policy committees met to discuss timely issues.

"I am pleased with the continued growth and energy at the NCOIL Summer Meeting" said Commissioner Tom Considine, NCOIL CEO. "At this meeting, we selected a new Vice President, re-adopted many models and adopted a Consumer Protection Model Towing Act that represents a comprise among all the stakeholders." *Con'd on Page 2.*



Sen. Jason Rapert, AR
NCOIL President



Thomas B. Considine
NCOIL CEO

NCOIL APPLAUDS HOUSE BIPARTISAN PASSAGE OF H.R. 4357, URGES SWIFT SENATE PASSAGE

NCOIL CEO Commissioner Tom Considine applauded passage of H.R. 4537 by the full House of Representatives and urged the Senate to do the same and send the legislation to the President.

"NCOIL believes this legislation is necessary to provide greater oversight and transparency on international insurance standards and preserve the state-based system of insurance regulation that has thrived for nearly seventy-five years. NCOIL legislators shared their support of this legislation while we visited with our federal counterparts in June. The

Senate needs to swiftly pass this legislation and send it to the President."

Earlier this year, for the third time in as many years, NCOIL legislators participated in a DC Educational Fly-In with Members of Congress and their staff to protect the state-based system of insurance regulation.

Full information about H.R. 4537 can be viewed here -

<https://www.congress.gov/search>



Sen. Dan "Blade" Morrish, LA
Vice President



Rep. Matt Lehman, IN
Treasurer



Asm. Ken Cooley, CA
Secretary



Rep. Steve Riggs, KY
Immediate Past President



Sen. Travis Holdman, IN
Immediate Past President

Salt Lake City con'd

In addition, there were 3 General Sessions: Innovation General Session – Navigating the Future of Autonomous Vehicles: A Tech and Insurance Update; Health General Session – Breaking Down Silos: Innovative Solutions to Address the Opioid Epidemic; and Property & Casualty General Session – Arrive Alive: Legislative and Industry Trends to Stop Distracted Driving; and 2 Fundamentals of Insurance trainings by the Institutes Griffith Foundation to train new legislators about insurance public policy.

Utah Attorney General Sean Reyes gave an inspirational Keynote Address at the Luncheon and the body saw a video message from Utah Governor Gary Herbert.

The NCOIL Property and Casualty Insurance Committee adopted the Consumer Protection Model Towing Act, sponsored by Rep. Matt Lehman (IN), NCOIL Treasurer, and re-adopted the following model laws for 5 years, per NCOIL bylaws - Model Act Regarding Auto Airbag Fraud; Model State Uniform Building Code; Model Act Regarding Disclosure of Rental Vehicle Damage Waivers; Model Anti-Runners Fraud Bill; Property/Casualty Insurance Modernization Act; and Property/Casualty Insurance Domestic Violence Model Act.

The State Flood Disaster Mitigation and Relief Model Act was re-adopted until the December meeting in Oklahoma City in order to consider proposed amendments that would promote the private flood insurance market.

The NCOIL Financial Services Committee adopted a Resolution in Support of The Small Business Audit Correction Act of 2018, sponsored by Sen. Jason Rapert (AR), NCOIL President.

The NCOIL Health, Long-Term Care & Health Retirement Issues Committee continued discussion of the licensure and regulation of PBMs with the goal of having a model ready for action in December.

The NCOIL Workers' Compensation Committee re-adopted the following model laws for 5 years per NCOIL bylaws - Model Act on Workers' Compensation Coverage for Volunteer Firefighters; Construction Industry Workers' Compensation Coverage Act; and Model Act Regarding Workers' Compensation Insurance Coverage in Professional Employer Organization (PEO) Relationships

The NCOIL Model Act on Workers' Compensation Repackaged Pharmaceutical Reimbursement Rates was re-adopted until the December meeting in Oklahoma City in order to consider proposed amendments regarding physician dispensing and drug compounding.

Minutes for the NCOIL meeting will be posted at www.ncoil.org.

The NCOIL Annual Meeting will be in Oklahoma City, OK at the Renaissance Oklahoma City from December 5 – 8. Registration will be open in late August.

LA SENATOR DAN "BLADE" MORRISH ELECTED TO SERVE AS NCOIL VICE PRESIDENT

The NCOIL Executive Committee met this morning at a Special Executive Committee Meeting during the Welcome Breakfast at the 2018 Summer Meeting in Salt Lake City and elected Louisiana Senator Dan "Blade" Morrish to fill the remaining term as Vice President.

"I am honored and humbled to have been chosen to serve as Vice President" said Morrish. "NCOIL is a valuable organization that I have participated with for many years as a legislator. As we begin NCOIL's 50th anniversary, I look forward to serving and sharing the great works of this organization."

The position became vacant when VT Rep. Bill Botzow decided not to seek another term in the VT legislature and resigned as NCOIL Vice President.

"When Bill Botzow told me of his decision to leave the legislature and NCOIL, and I reflected on the need for immediate succession planning, Blade Morrish is the person to come to mind," said AR Sen. Jason Rapert, NCOIL President. "Blade has been an NCOIL leader who for years, having chaired a number of our committees and is universally respected in the organization," Rapert continued. "He has my full confidence and the support of our officer team." "Sen. Morrish is exactly the type of leader NCOIL needs in our officer ranks at this point in our history" said Commissioner Tom Considine, NCOIL CEO. "He is forward looking, pragmatic & bipartisan, and intent to grow the organization. I welcome him and am excited to work together."

NCOIL DC Fly-In



Rep. Steve Riggs, KY; Sen. Bob Hackett, OH; Sen. Jason Rapert, AR; Rep. Matt Lehman, IN; Rep. Deborah Ferguson, AR; Rep. Joe Hoppe, MN; Rep. David Santiago, FL

NCOIL PASSES RESOLUTION IN SUPPORT OF THE SMALL BUSINESS AUDIT CORRECTION ACT

At the 2018 NCOIL Summer Meeting in Salt Lake City, UT, the NCOIL Financial Services Committee adopted a Resolution sponsored by NCOIL President, AR Sen. Jason Rapert, in Support of the Small Business Audit Correction Act. The Executive Committee affirmed the passage.

The Small Business Audit Correction Act would provide regulatory relief to privately-held, non-custodial investment brokers and dealers by exempting them from stringent audit requirements of the Public Company Accounting Oversight Board, which was created by Sarbanes-Oxley and given additional powers over small brokers by Dodd-Frank. Prior to Sarbanes-Oxley, and as amended by Dodd-Frank, brokers and dealers were required to hire American Institute of CPAs registered auditors who followed General Accepted Accounting Standards when conducting audits. This legislation would reinstate those audit requirements for privately-held, non-custodial brokers and dealers.

"The Small Business Audit Correction Act fixes a costly mistake for small businesses' that are the lifeblood of our states" said Sen. Rapert. "In this instance, the federal government's one-size-fits-all regulatory approach inappropriately penalized these privately-held, small, non-

custodial brokers and dealers by holding them to the same standards as large firms such as Merrill Lynch. I trust the federal government will hear the message that this overreach will not stand." Rapert concluded "I applaud the bipartisan leadership of Rep. French Hill, R-AR; Rep. Vicente Gonzalez, D-TX; Sen. Tom Cotton, R-AR; and Sen. Doug Jones, D-AL for addressing this important issue in Congress. This legislation is the kind of common sense solution needed to keep our economy moving forward and remove job-killing government regulations."

"By its very name, the Public Company Accounting Oversight Board exists to oversee public entities, not small, private firms" said Commissioner Tom Considine, NCOIL CEO. "This bipartisan legislation represents sound and reasonable policy that will allow small businesses to deploy their resources on helping local communities rather than on wrongfully applied, expensive, regulations."

"I was pleased when Senator Rapert brought this issue forth for consideration as it represents part of NCOIL's continued effort to discuss emerging issues in the banking and financial services sectors for discussion at NCOIL meetings" Considine concluded.

A full copy of the Resolution can be viewed at ncoil.org.

Capital

O By Will Melofchik – NCOIL Legislative Director

r Greetings –

n Welcome to the latest installment of Capital Corner, a column that aims to update you on some of the issues that NCOIL is following. Below are some updates on a few issues that were discussed during the recent NCOIL Summer Meeting in Salt Lake City and will be monitored during the buildup to the NCOIL Annual Meeting in Oklahoma City.

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NFIP Reauthorized but Future Remains Uncertain

The National Flood Insurance Program (Program) has been a frequent topic of discussion at NCOIL meetings. However, the frequency with which NCOIL discusses the Program is somewhat unfortunate because most of the time the conversation focuses on Congress' failure to pass a long-term reauthorization and reform bill.

On July 31, 2018, with the Program scheduled to expire at midnight, Congress yet again kicked the can down the road and re-authorized the Program for only four months until November 30. The latest reauthorization is the seventh extension of the Program since September 2017.

Sensing the feeling of uncertainty about the future of the Program, along with the realization that as currently structured, the Program cannot handle catastrophic losses like those caused by the devastating hurricanes in 2017, at the recent NCOIL Summer Meeting in Salt Lake City, Rep. David Santiago (FL), Vice Chair of the NCOIL Property & Casualty Insurance Committee, offered proposed amendments to the NCOIL State Flood Disaster Mitigation and Relief Model Act (Model) that would encourage private insurers to offer flood insurance *Con'd on Page 4.*

NCOIL 2018 Summer Meeting Highlighted by Passage of Consumer Protection Towing Model Act

During the 2018 NCOIL Summer Meeting in Salt Lake City, UT, the NCOIL Property & Casualty Insurance Committee (Committee) adopted the Consumer Protection Towing Model Act (Model), sponsored by Rep. Matt Lehman (IN), NCOIL Treasurer. The Executive Committee later confirmed passage of the Model. Several drafts of the Model were considered by the Committee before arriving at the version recently adopted.

“This is NCOIL Model Law development as it should work” said IN Rep. Matt Lehman. “There was an initial conversation, all interested parties shared their views and ideas, all groups compromised a bit and the end result is a framework that allows states to add to the model as they see fit.”

The Committee was close to voting on earlier drafts of the Model at the 2017 Annual Meeting in Phoenix, AZ, and 2018 Spring Meeting in Atlanta, GA. However, after listening to objections raised by representatives from the towing industry, the Committee prudently waited for a version of the Model that was agreeable to both the towing and insurance industries.

Realizing that more work on the Model needed to be done after the Committee’s meeting in Atlanta, Rep. Lehman called for an interested parties’ meeting to be held to discuss the Model so that a final version could be ready for Committee consideration at the NCOIL Summer Meeting in July. The meeting, hosted by the National Association of Mutual Insurance Companies (NAMIC), was a tremendous success, as each industry made meaningful concessions, recognizing that legislative negotiations are often measured as successful if each *Con’d on Page 6.*

Capital Corner Con’d

policies to enhance the long term stability of states’ property insurance markets. The proposed amendments are based on legislation Florida passed in 2014.

The NCOIL P&C Committee will most likely consider the proposed amendments at the NCOIL Annual Meeting in Oklahoma City (Dec. 5th – 8th). Scheduling an interim conference call of said Committee before the Annual Meeting to discuss the proposed amendments is also being considered. Stay tuned to Capital Corner to see if the proposed amendments will end up serving as a framework for states wishing to reduce their reliance on the Program and send a signal to Congress that the states can act appropriately when it does not.

AHP and STLD Regulations – The Answer to What Ails the U.S. Healthcare Marketplace?

Despite being unable thus far to successfully work with Congress to pass legislation that would either repeal or reform the Affordable Care Act (ACA), the Trump Administration has been very active on the healthcare regulatory front.

In response to an Executive Order issued by President Trump, on June 19, 2018, the U.S. Department of Labor (DOL) released a final rule that significantly altered the way that AHPs are regulated. Supporters of the rule state that it will help small businesses afford better health insurance coverage for their employees. Critics contend that the rule is a way to skirt the ACA requirement that plans cover essential health benefits (EHBs).

On August 1, 2018, the Internal Revenue Service, the Health and Human Services Department, and the Employee Benefits Security Administration (together, “the Departments”) released the much-anticipated final rule on STLDs. As expected, the final rule repealed the 90-day limit on STLDs and reinstated the previous definition of STLD which permitted coverage for up to 364 days. However, the final rule contained an unexpected twist: if they wish, insurers can make the STLDs renewable for up to three years.

Whether or not expanding access to AHPs and STLDs is good for consumers is certainly debatable, but perhaps the most important provision in both final rules is that state authority to regulate both products is largely not disturbed. Preserving the state-based system of insurance regulation is something NCOIL will always support. Will NCOIL support the new AHP and STLD regulations? The regulations will certainly be a topic of discussion going forward for the NCOIL Health Committee. Be sure to attend the NCOIL Annual Meeting in Oklahoma City to be part of the discussions. *Con’d on Page 5.*

Capital Corner Con'd

A Possible Framework for Insuring Personal Ownership of Autonomous Vehicles

The development of autonomous driving systems may be the most consequential transportation issue of our time, and, there is no doubt that insurance will play a crucial role for manufacturers, suppliers, owners, operators, and passengers alike as the technology continues to develop. Adapting to autonomous vehicles (AVs) will entail a fundamental change in transportation, mobility, infrastructure, and in a myriad of other areas.

At the NCOIL Summer Meeting in Salt Lake City, a general session was held titled: “Navigating the Future of Autonomous Vehicles: A Tech and Insurance Update.” Panelists were: Tony Reinhart – Director of Government and Community Relations (Midwest/Southern Region) – Fort Motor Company; Gary Strannigan – Senior Public Affairs Officer – Liberty Mutual; Brad Nail – Senior Risk and Public Policy Manager – Uber; and Tom Karol – General Counsel, Federal Affairs – NAMIC.

While all the panelists provided valuable and insightful information, Brad Nail’s presentation was particularly noteworthy, due in large part to his remarks regarding a possible model statutory approach as to how to insure for potential liability relating to AVs. Mr. Nail provided the following statutory elements that could be the basis for future conversations surrounding NCOILs involvement in the issues of AVs and insurance:

- (a) With respect to collisions involving an automated vehicle, the person in whose name the automated vehicle is registered shall be deemed liable for the operation and functioning of that automated vehicle while the automated driving system is engaged. (emphasis added)
- (b) The liability of the vehicle registrant under this section shall be limited to the amounts required to satisfy financial responsibility under [the financial responsibility law]. (emphasis added)
- (c) The liability imposed by this section does not affect the vehicle registrant’s legal rights under statutory or common law to seek contribution or subrogation from one or more parties liable under applicable statutory law, common law, or other applicable federal or state law or regulation.
- (d) This section does not limit the liability of the person in whose name the automated vehicle is registered for any negligent or intentional acts by that person.
- (e) This section does not limit the liability of a motor vehicle manufacturer or other third party under applicable statutory law, common law, or other applicable federal or state law or regulation.

What do you think about the proposal? Interested parties are encouraged to reach out to the NCOIL National Office with any comments and/or suggestions.

We hope to see you in Oklahoma City, and hear from you in the interim.

Will

[Click here for an expanded version of Capital Corner](#)

December 2018						
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Mark your calendar!!



OKLAHOMA CITY ★ OKLAHOMA

December 5—8, 2018

Towing Model Con'd

party leaves sullen but not rebellious.

The meeting was a great example of the value that NCOIL can provide in being able to bring those with differing views together and end up with sound insurance policy in the form of model legislation that serves to protect consumers which states can use as a basis for developing their own laws.

While there are many outstanding towing companies, NCOIL was hearing that some towing companies were not conducting themselves in a proper manner, resulting in unsubstantiated fees for towing and storage services, due in large part to the fact that the towing industry is largely unregulated in many states.

"I appreciate that so many companies, trades, and interested parties fully participated in this process, which was not easy or quick. In the end, I expect many states to take this model as a framework as minimum standards for their states and enact it as law" concluded Lehman.

The idea behind the Model is to establish minimum standards for towing vendor services and to promote fair and honest practices in the towing service business. Highlights of the Model include:

- requiring towing companies to take photographs, video, or other visual documentation to evidence vehicle damages, debris, damaged cargo or property, and complications to recovery process, prior to removing a vehicle from a tow truck;
- in certain emergency towing situations, permitting the owner or operator of a disabled motor vehicle to summon the towing company of the owner's or operator's choice;
- requiring towing companies to furnish the vehicle owner, if the owner is present at the scene of a disabled vehicle, a rate sheet listing all rates for towing services included but not limited to, all rates for towing and associated fees, cleanup charges, labor, storage, and any other services provided by the towing company, prior to attaching a vehicle to a tow truck;
- requiring an itemized invoice of actual towing charges assessed by a towing company for a completed tow to be made available to the owner of the motor vehicle or the owner's authorized agent, which may be an insurance company, not later than one (1) business day after the tow is completed, or the towing company has obtained all necessary information to be included on the invoice, including any charges submitted by subcontractors used by the towing company to complete the tow – whichever occurs later;
- describing processes towing companies and storage facilities must follow for identifying the owner and lienholders of the motor vehicle;
- outlining prohibited acts and defining penalties.

The Model can be viewed here: <http://ncoil.org/wp-content/uploads/2018/07/Towing-Model-Final-7-16-18-1.pdf>

NCOIL thanks everyone who worked on the Model and looks forward to seeing the Model introduced in upcoming state legislative sessions. Interested parties are encouraged to notify the NCOIL national office with any updates regarding the Model's introduction into any state legislatures.

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