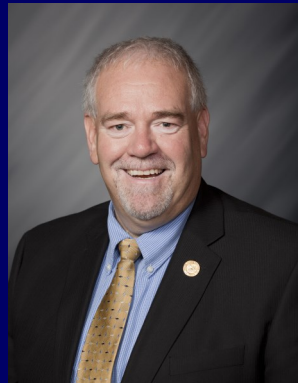




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**NCOIL “Summer” Meeting  
September 24th—26th  
Alexandria, VA  
[REGISTER NOW](#)**



Rep. Matt Lehman, IN  
President



Thomas B. Considine  
NCOIL CEO



Asm. Ken Cooley, CA  
Vice President

## Capital

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By Will Melofchik

Greetings -

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 issues that NCOIL will be discussing at the upcoming NCOIL “Summer” Meeting and throughout

Things certainly have been interesting here at the NCOIL National Office since we returned from our last meeting in Charlotte this past March. Remarkably, although COVID forced the hotel to close for months immediately following our Spring Conference adjournment, not a single attendee contacted us with news that they had been diagnosed with the illness.

Not surprisingly, NCOIL became an all-COVID all-the-time organization for the next several weeks as issues arose as a result of the pandemic. We never lost sight though of the other, pressing matters of public policy which are unrelated to COVID-19, and our need to return to them, which we did as well beginning in mid-April. Accordingly, while issues such as business interruption insurance coverage and workers’ compensation presumption statutes may be the most obvious candidates for discussion in this column, below are three issues unrelated to COVID-19 that NCOIL will extensively discuss at our “Summer” Meeting and beyond.

### Private Flood Insurance Model Act Nearing Finish Line

After nearly two years of deliberations, NCOIL is almost ready to complete its work developing a model law aimed at facilitating the growth of the private flood insurance market. This development comes just before the arrival of hurricane season and the unfortunate reality that most Americans do not have flood insurance. Additionally, the results of a new study indicate that federal authorities have underestimated the flood risk for millions of properties across the U.S: [https://firststreet.org/flood-lab/research/flood-model-methodology\\_overview/](https://firststreet.org/flood-lab/research/flood-model-methodology_overview/).

The road to the latest version of the NCOIL Model (which can be viewed here: <http://ncoil.org/wp-content/uploads/2020/06/Pvt-Flood-Model-Working-Final-Draft-6-15-20.pdf>) has certainly contained some obstacles, but there appears to be a growing sense among everyone involved that the work is nearly finished.



Asm. Kevin Cahill, NY  
Treasurer



Rep. Joe Fischer, KY  
Secretary



Sen. Jason Rapert, AR  
Immediate Past President



Sen. Travis Holdman, IN  
Immediate Past President

## Capital Corner Cont'd

The concept of developing Model legislation aimed at supporting the private flood insurance market was first introduced by Rep. David Santiago (FL) in the form of amendments to the NCOIL State Flood Disaster and Mitigation Relief Model Act during the 2018 NCOIL Summer Meeting. Sensing the importance of the topic, then NCOIL President, Louisiana Senator Dan "Blade" Morrish, announced the creation of a Special Committee (Committee) on Natural Disaster Recovery whose main charge was to shepherd the aforementioned amendments private through towards final adoption. The Committee is Chaired by North Carolina Senator Vickie Sawyer who is now a lead sponsor of the Model.

One of the first decisions made by the Committee was to develop a standalone Model law rather than proceed with amendments to an existing NCOIL Model. After several further discussions involving legislators, regulators, consumer advocates, and industry representatives from across the country, several changes were made to the Model.

In addition to the issues of form approval, rate approval, and required disclosures agents must make to consumers, provisions have been added to address: coverage gaps for those whose private flood insurance policy is cancelled or not renewed; diligent search requirements; and insurers certifying that the insurance policy meets the definition of 'private flood insurance,' as specified in 42 U.S.C. § 4012a(b)(7) and applicable federal regulations.

The comment period on the Model is of course still open, but the Committee will aim to vote on the Model at its next meeting, either via conference call before the NCOIL "Summer" Meeting in September or during said meeting. We urge you to review the Model and consider supporting efforts within your respective state to close the nation's insurance gap.

*Cont'd on Page 3*

## NCOIL EXECUTIVE COMMITTEE ANNOUNCES IN-PERSON NATIONAL MEETING; TAKES OTHER ACTIONS

The National Council of Insurance Legislators (NCOIL) Executive Committee, Chaired by NCOIL President Matt Lehman (Rep. – IN), held an interim conference call meeting on July 1<sup>st</sup>, announcing it would move forward with its "Summer" National Conference. The event, which had been scheduled for Jersey City, NJ this month, will now be held in Old Town, Alexandria, VA in September.

Additionally, the group passed proposed amendments to the NCOIL Articles of Organization & Bylaws that the NCOIL Bylaws Committee adopted earlier in June. A discussion continued from one held by the NCOIL Property & Casualty Insurance Committee at its most recent meeting this past March in Charlotte, NC regarding the National Association of Insurance Commissioners (NAIC) Casualty Actuarial and Statistical (C) Task Force's (CASTF) draft Regulatory Review of Predictive Models White Paper (White Paper). This discussion included the consideration and passage of a Resolution urging the NAIC to refrain from intruding on the Constitutional role of state legislators.

Chair Matt Lehman stated, "We thank all who joined and participated on the call. These interim calls are very important, especially in the circumstances we are in. Since the NCOIL 'Summer' Meeting is rescheduled two months later than its usual July meeting, we must be sure to continue having open communication and continuous dialogue between the NCOIL policy committees, consumers, regulators, the insurance industry, and other interested parties in the meantime in order to efficiently address timely issues."

NCOIL Vice President, CA Asm. Ken Cooley said, "As sponsor of the NCOIL Resolution urging the NAIC to refrain from intruding on the Constitutional role of state legislators, I want to say thank you to my colleagues for engaging in a lively discussion on the issue. The Resolution adopted by the NCOIL Executive Committee is another important action taken by NCOIL to protect and uphold state legislators' jurisdiction over insurance. We continue to hope we can resolve the disagreement through ongoing dialogue with the NAIC."

*Cont'd on Page 4*

## Future NCOIL Meetings:

“Summer” 2020  
September 24–26  
Alexandria, VA

Annual 2020  
December 9–12  
Tampa, FL

Spring 2021  
March 11–14  
Washington, DC

Summer 2021  
July 14–17  
Boston, MA

Annual 2021  
November 17–20  
Scottsdale, AZ

Spring 2022  
March 3–6  
Las Vegas, NV

Summer 2022  
July 13–16  
Jersey City, NJ

Annual 2022  
November 16–19  
New Orleans, LA

## Capital Corner Cont'd

### An NCOIL Corporate Division Model Law – The Next Logical Step?

During the 2020 NCOIL Spring National Meeting, the organization adopted the NCOIL Insurance Business Transfer (IBT) Model Act (Model), sponsored by New York Assemblyman Andrew Garbarino and Oklahoma Representative Lewis Moore. The Model underwent significant discussions for almost two years and is largely based on the Oklahoma IBT law that was signed into law in 2018. IBT laws essentially allow an insurer to transfer legal liability of some or all of its business underwritten to another insurer, but only following a robust review and approval from the state insurance commissioner (utilizing an independent expert), and the court.

Another vehicle that insurers can utilize to achieve legal and economic finality is a “division.” Division laws have been enacted in seven states: Arizona, Connecticut, Georgia, Illinois, Iowa, Michigan, and Pennsylvania. The division statutes in Arizona and Pennsylvania permit the division of any type of entity, while the statutes in the remaining five states only permit the division of insurers. Division laws allow domestic insurance companies to divide into two or more insurance companies – effectively a “de-merger” – resulting in the assets and liabilities of the dividing insurers, including insurance policies and reinsurance agreements, being allocated and becoming the assets and liabilities of the two or more resulting insurers by operation of law.

Similar to an IBT, insurer divisions promote more efficient allocation of capital and better alignment of insurance risks with current business strategy and dedicated management, which in turn benefits policyholders through better product pricing since the insurance risks are aligned with an insurer’s current business strategy and are the core focus of management, shareholders, and regulators. All states with insurer division statutes require the division to be approved by the insurance commissioner. States vary as to whether the commissioner is required hold a public hearing and utilize an independent expert during the division review process.

Both legislators and interested parties have come forward expressing interest in developing an NCOIL Insurer Division Model Act, contending that it is the next logical step for NCOIL to take following the adoption of its IBT Model Act. Accordingly, during NCOIL’s upcoming “Summer” Meeting, the first draft of an NCOIL Insurer Division Model Act will be introduced for discussion.

Of course, not every NCOIL draft Model advances through to final passage. What are your thoughts on an NCOIL Insurer Division Model Act? Is there a particular state division statute that should guide NCOIL’s drafting efforts? NCOIL looks forward to discussing this development process in an effort to once again produce an innovative Model Act that will benefit insurers and policyholders alike.

### Arrive Alive: NCOIL to Discuss Development of Distracted Driving Model Law

Distracted driving has become a tremendous problem throughout the entire country. We all know how common distracted driving is and I am sure almost everyone reading this is unfortunately guilty of some form of it as distracted driving is not just limited to talking or texting on a cell phone. In fact, distracted driving is not new, as drivers have been eating, talking, and fiddling with radio dials for decades.

Nearly every state has enacted legislation prohibiting texting while driving, and over 20 states have gone further to enact broader “hands free” legislation that prohibits distracted driving in general. Subject to certain exceptions, under such legislation a driver generally cannot hold a “telecommunications device” which includes a cell phone, tablet, or GPS device.

Earlier this month, “hands free” legislation became effective in Idaho, Indiana, and South Dakota. According to the National Highway Traffic Safety Administration (NHTSA), states that have passed “hands-free” driving laws have seen a nearly 20 percent decrease in traffic deaths in the two years after passing the law. Despite that track record of success, there are detractors who claim that such laws are difficult to enforce and that they are a form of government overreach.

*Cont'd on Page 4*

## Capital Corner Cont'd

Opinions also differ as to how severe the fines should be for violating the laws as a balance must be struck between the fines being so low that they do not act as a deterrent, and so high that no one is able to pay them thereby rendering the law ineffective. Similarly, some states make violation of the law a misdemeanor – or felony if there is physical injury to another person resulting from the violation – and some states assess points on a driver's license.

As these types of laws have continued to appear in state legislatures, both legislators and interested parties have urged NCOIL to develop a distracted driving model law for implementation across the country. Accordingly, during the upcoming interim conference call meeting of the NCOIL Property & Casualty Insurance Committee, the first draft of an NCOIL Distracted Driving Model Act will be introduced. Discussion on the Model will continue during NCOIL's "Summer" Meeting in September.

What are your thoughts on an NCOIL Distracted Driving Model Act? Is there a particular "hands free" statute that should guide NCOIL's drafting efforts? Should the Model impose points for violation and/or allow for possible suspension or revocation of a driver's license for repeated violations? NCOIL looks forward to getting this discussion started and hearing from everyone who is interested in this issue.

Please submit any thoughts or comments on the private flood insurance model, insurer division model, or distracted driving model to [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org).

We hope to see you soon, in Old Town in September if not before, and hear from you in the interim.

*-Will*

## Exec Committee Interim Call Cont'd

"Regrettably, some have tried to twist this Resolution with contentions that it is suborning indirect racial discrimination. To be clear, the purpose of this Resolution is to maintain the proper constitutional jurisdiction of state legislatures over the significant public policy issues related to insurance. NCOIL stands firmly in its belief that racial discrimination in any and every form is wrong," concluded NCOIL's President Lehman.

There were over 70 participants on the interim call which included 26 legislators from 18 states. NCOIL heard from the perspectives of the National Association of Mutual Insurance Companies (NAMIC), Center for Economic Justice, former Illinois Director Nat Shapo, and others.

Arizona State Senator David Livingston from LD22, Chair of the NCOIL Articles of Organization & Bylaws Revision Committee said, "We had a very robust discussion on the proposed amendments back in June on the interim call. The amendments better reflect the situation we are in and may potentially face in the future. In the event that NCOIL cannot physically meet, NCOIL needs to be able to carry on. The work we do is too important to come to a halt during these unprecedented times."

NV Asw. Ellen Spiegel, Vice-Chair of the NCOIL Articles of Organization & Bylaws Revision Committee said, "I want to echo Sen. Livingston's comments. The amendments to the existing NCOIL model make it stronger and I commend the Executive Committee for adopting these changes."

NCOIL CEO, Commissioner Tom Considine stated, "This call was a great example of how public policy should be made; legislators hearing from interested parties and sharing views with one another in a spirited, respectful bipartisan public debate. We are really looking forward to seeing all who are able to attend the 'Summer' Meeting in September."

Minutes from the call are posted on the NCOIL website [here](#).  
NCOIL Articles of Organization & Bylaws Amendments can be viewed [here](#).  
NCOIL Resolution Urging the NAIC to Refrain from Intruding on the Constitutional Role of State Legislators can be viewed [here](#).



**CIP MEMBERS  
MARK YOUR  
CALENDARS**

**2020 CIP  
Planning Meeting**

**Sept. 23 –24, 2020  
Hilton Alexandria  
Old Town  
Alexandria, VA**

*Registration and Hotel  
Information Will Be  
Distributed Soon*

## PROPERTY & CASUALTY INSURANCE COMMITTEE SETS INTERIM MEETING FOR JULY 24TH

Kentucky Representative Bart Rowland, the new Chair of the NCOIL Property & Casualty Insurance Committee, will be hosting an interim conference call meeting of the NCOIL Property & Casualty Insurance Committee on Friday, July 24th from 1:00 p.m. to 2:30 p.m. (EST).

The purpose of the interim meeting is for the Committee to:

- 1.) discuss the first draft of an NCOIL Distracted Driving Model Act;
- 2.) provide an update on the National Association of Insurance Commissioners (NAIC) Casualty Actuarial and Statistical (C) Task Force's (CASTF) Regulatory Review of Predictive Models White Paper; and
- 3.) provide an opportunity to discuss any of the five (5) NCOIL Model Laws that are scheduled for re-adoption at the upcoming NCOIL "Summer" Meeting in September. Those Models are:
  - a.) Post-Assessment Property and Liability Insurance Guaranty Association Model Act (originally adopted Nov. 2007; amended March 2015);
  - b.) Model Act Regarding Medicaid Interception of Insurance Payments – adopted November 2014; amended March 2015;
  - c.) Storm Chaser Consumer Protection Act – adopted July, 2015;
  - d.) Model Act Regarding Use of Credit Information in Personal Insurance – originally adopted November 2002; re-adopted November 2005; amended 2009; re-adopted November 2015; and
  - e.) Model Act to Regulate Insurance Requirements for Transportation Network Companies and Transportation Network Drivers – adopted July 2015.

You can view all material and register for the call [here](#). Please direct any questions or comments to NCOIL General Counsel Will Melofchik at [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org).

Meeting ID and password will be furnished upon registration. A formal agenda, and other information regarding the agenda items will be circulated prior to the call.

**PROPERTY & CASUALTY INSURANCE COMMITTEE  
INTERIM CONFERENCE CALL  
JULY 24, 2020 • 1-2:30PM (EST)**

**[CLICK HERE FOR MORE INFORMATION](#)**

## NCOIL HIGHLIGHTS NATIONAL INSURANCE AWARENESS DAY

The National Council of Insurance Legislators (NCOIL) highlights June 28<sup>th</sup> as National Insurance Awareness Day. This day has been designated to serve as a reminder to business owners to review their insurance policies and ensure they have the coverage they need.

NCOIL President, IN Rep. Matt Lehman stated, "It is extremely important, particularly during these unprecedented times, that people understand their coverage, including a policy's exclusions. As insurance legislators, many of us who work as insurance professionals outside of the political scene, it is our primary responsibility to work to protect consumers. There is no doubt that 2020 has been a challenging year for businesses across the country. All business owners, particularly small business owners, should make it a point to verify that they have the proper insurance coverage in place."

*Cont'd on Page 6*

## National Insurance Awareness Day Cont'd

NCOIL CEO, Commissioner Tom Considine said, "As with every hurricane season, the need to be prepared is especially important. The vast majority of Americans either do not have flood insurance or are not aware that their policy does not cover flood. In recognition of National Insurance Awareness Day, NCOIL is reminding business owners and consumers to take the time to talk to an insurance agent, review their insurance plans, or get a policy that offers the security needed to recover losses. The value of items can shift over time and situations can change, as we have all experienced in 2020."

More information on National Insurance Awareness Day can be found here:  
<https://nationaltoday.com/national-insurance-awareness-day/>

## REGISTRATION FOR NCOIL "SUMMER" MEETING IS OPEN

Registration for the 2020 NCOIL "Summer" Meeting at the Hilton Alexandria Old Town in Alexandria, VA from September 24th—26th is open.



The meeting will start immediately after the CIP meeting on the 24<sup>th</sup> and end the day with a Welcome Reception. A full day of policy committee meetings will continue on the 25<sup>th</sup> beginning with the Welcome Breakfast in the morning, keynote luncheon, and the CIP and Sponsor Reception in the evening. The meeting will conclude on the 26<sup>th</sup> around 1:30/2:00 p.m.

*See the full tentative schedule on page 7 or view at the NCOIL website [here](#)*

**DON'T FORGET TO BOOK YOUR HOTEL!!!**

*The hotel block closes on **September 1st***

**Legislators book here:**



**General Participants book here:**



## NCOIL 2020 "SUMMER" MEETING TENTATIVE SCHEDULE

### THURSDAY, SEPTEMBER 24TH

\*\*\*Committee meetings for Thursday, September 24th will start at approximately 3:00 PM. Specific committee meetings will be listed in the next draft of the schedule\*\*\*

Welcome Reception	6:00 PM	-	7:00 PM
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### FRIDAY, SEPTEMBER 25TH

\*\*\*There will be a separate business agenda for the Welcome Breakfast. Committee meetings/general sessions for Friday, September 25th will start at approximately 10:00 AM and end at approximately 5:00 PM. There will also be a luncheon at approximately 1:00 PM. Specific committee meetings will be listed in the next draft of the schedule\*\*\*

Welcome Breakfast	8:15 AM	-	9:45 AM
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CIP Member & Sponsor Reception	5:45 PM	-	6:45 PM
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### SATURDAY, SEPTEMBER 26TH

\*\*\*Committee meetings/general sessions for Saturday, September 26th will start at approximately 9:00 AM and end at approximately 2:00 PM. Specific committee meetings will be listed in the next draft of the schedule\*\*\*

Business Planning Committee & Executive Committee	1:00 PM	-	2:00 PM
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# REGISTER NOW

[CLICK HERE](#)