

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE
SCOTTSDALE, ARIZONA
NOVEMBER 19, 2021
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at The Westin Kierland Hotel in Scottsdale, Arizona on Friday, November 19, 2021 at 9:00 a.m.

Senator Paul Utke of Minnesota, presided.

Other members of the Committee present were:

Rep. Deborah Ferguson (AR)	Rep. Joe Fischer (KY)
Sen. Keith Ingram (AR)	Sen. Charles Younger (MS)
Sen. David Livingston (AZ)	Asm. Ken Blankenbush (NY)
Asm. Ken Cooley (CA)	Sen. Bob Hackett (OH)
Rep. Jonathan Carroll (IL)	Rep. Carl Anderson (SC)
Rep. Matt Lehman (IN)	Del. Steve Westfall (WV)
Sen. Travis Holdman (IN)	

Other legislators present were:

Rep. James Kaufman (AK)	Sen. Mike McLendon (MS)
Rep. Stephen Meskers (CT)	Sen. Walter Michel (MS)
Rep. Tammy Nuccio (CT)	Sen. Jim Burgin (NC)
Sen. Jim Guthrie (ID)	Sen. Pam Helming (NY)
Rep. Doug Gutwein (IN)	Sen. Jay Hottinger (OH)
Rep. Craig Snow (IN)	Sen. George Lang (OH)
Sen. Beverly Gossage (KS)	Del. Moore Capito (WV)
Rep. John Illg (LA)	Sen. Eric Nelson (WV)
Sen. Lana Theis (MI)	

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel

QUORUM

Upon a Motion made by Sen. Bob Hackett (OH), and seconded by Rep. Joe Fischer (KY), NCOIL Secretary, the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Del. Steve Westfall (WV), and seconded by Sen. Hackett, the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 15, 2021 meeting in Boston, MA.

UPDATE ON INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION (IIPRC)

Karen Schutter, Executive Director of the IIPRC, thanked the Committee for the opportunity to talk about a very important State initiative and that is the Insurance Compact (Compact). Hopefully you've heard about that in your state as 47 states belong to this very important, and what I would say has been successful, initiative of state-based regulation. What I'm going to cover today is the "What, the Why, and the How" about the Compact because it was by statute that many of the states joined the Compact many years ago and it was for the purpose of really modernizing and making the state based insurance regulatory approval process much more efficient.

Many of you are likely familiar with Compacts in other areas. I know that there's a big effort in the occupational licensing field right now with regards to Compacts whether it's medical, nursing, or physical therapy. So, the principal of a Compact is it's a creature of state law and it really is an agreement amongst states. You are coming together to agree upon collaboration and cooperation. One of the most important things about a Compact is you're in charge - it must be enacted by a legislature and approved by the Governor. So, it must be an enacted law, it can't be a regulation or any other form and each state in the Compact firmly controls its participation. and there are a lot of safeguards within the Compact.

It was developed nearly twenty years ago jointly by the National Association of Insurance Commissioners (NAIC), NCOIL, and the National Conference of State Legislatures (NCSL). There were a lot of meetings and a lot of negotiations about the terms of this Compact before it was available for states to consider and enact. It was created in March 2004 and Compacts are like contracts, they're contracts between states. So, you need two states first to join and then you create an agreement amongst states. And one of the safeguards in our Compact was at least 27 states had to enact the Compact before it could get up and running. It wanted to wait until a majority of states were in this Compact before it could do the important work. This Compact became operational in May, 2006, and it took about a year to get all the foundations in place. So, it's really been working for states and their industry since 2007. You sometimes hear that states are a bit outdated in their legislation or regulation and need to catch up. What I would say to you is that this Compact is an innovative regulatory paradigm. The states really got out ahead of the calls for Federal regulation.

We'll now talk about the "why" about the Compact and what this Compact does is it covers individual and group annuities, life insurance, long term care (LTC) insurance, and disability income insurance. States come together to develop what we call uniform standards that apply to the content of a product. And all of the states participating have their departments of insurance (DOI) participate. So, it's a state-based organization and what it allows for is a company rather than going state by state by state taking months to get a product approved they come through the Compact and we work on behalf of all the compacting states.

It's really important to remember that the Compact is important today to state based regulation of the insurance industry. As we know, Compacts are legal frameworks for cooperative solutions to issues that really transcend state borders. Your sister organization the Council of State Governments (CSG) has a national center of interstate Compacts so there is a resource there. It's a tool for states to really work together to harmonize their regulations and their laws in a certain area. And they commonly create what they call multi-state bodies, which is the Commission and we'll talk about that in just a minute. So, for more information as to "why" this Insurance Compact - for those of you that were here 20 years ago, you remember that your discussions were about the very real threat of Federal preemption. Congress was really in the

weeds with regards to the life insurance industry, talking about a charter because the life insurance industry was now competing with banking and securities products through Gramm-Leach Bliley and removing the barriers to competition. And as you know, banking and securities are generally regulated at the Federal level with one approval and focused on getting their products out to market in a uniform manner.

So, the insurance industry has always felt that they're at a disadvantage and that again is the reason that the states said, "We want to come together and solve for this problem." These are mobile-borne products. So, a life insurance policy, an annuity, even an LTC insurance product you can buy that in one state, say you're in Minnesota and you want to retire in Arizona or vice versa. You can take that product and claim on it. You can't do that with your health insurance, or property & casualty coverages. So, these are mobile-borne products. You want to help all your consumers in terms of they should all have a uniform product. And they're non-local risks. Mortality and morbidity are generally national or aren't local like your weather risks. Regulators could not voluntarily agree to uniform standards as they needed a legal mechanism. In fact, they needed legislatures to join the Compact. And it's definitely been 20 years of getting states, if you remember 2006, we had 27 states so over the last 15 years, we've brought 20 more on. It's a member-driven joint public agency of state officials. Your insurance Commissioner/Director/Superintendent are actively involved as they're experts in their department and are actively involved in this Compact. So, they're the ones that are helping you make sure and really controlling the participation in this Compact.

So, here's our map and you'll see that we have most of the states and Delaware joined this year, so states are still joining this Compact. We worked with Senator Spiros Mantzavinos down there in Delaware. California, Florida and New York they're as you know some of the biggest markets in the nation, so they take a little longer and we're still working with the Dakotas. So, "how" it works, just really quickly. By enacting the Compact, states agree to develop uniform standards that apply to the products approved by the Commission. Your experts are developing our standards. They're based on model laws, regulations and really standards across the states. They're the best practices. Once approved through the Commission a Compact product can be issued in the participating Compacting states. So, it's a speed to market, it's efficiency, and really saves quite a bit on the systems testing implementation. But, we want to make sure you understand, it's a very open, transparent process as legislatures are our partners. There is a legislative committee comprised of eight state legislators from Compacting states. Every year or two you appoint four of those members from NCOIL and NCSL appoints the four others. You also have a consumer advisory committee, along with an industry advisory committee.

So, what is the role for you? First, I want to tell you about our legislative committee, as Representative Lehman (IN), NCOIL President, has been kind enough to serve as Chair for probably just as long, if not longer than his tenure as NCOIL President. Rhode Island Representative Brian Patrick Kennedy is the Vice Chair. And then we have Georgia Representative Matt Dollar, Kentucky Representative Joe Fischer, NCOIL Secretary, Illinois Senator Laura Fine, Nevada Assemblywoman Maggie Carlton, Chair of this Committee, and Utah Representative Jim Dunnigan. So, your colleagues are very active and involved. We've also had Indiana Senator Travis Holdman, NCOIL Immediate Past President, Ohio Senator Bob Hackett, and Arkansas Senator Jason Rapert, NCOIL Immediate Past President, all participate on our legislative committee.

So, what is your role? It's very important as you have the power to enact which many of you have done and you have the power to withdraw. We hope that never happens, but that is your ultimate power. But it's a State legislative-regulatory initiative and we have another safeguard:

we develop uniform standards for products like a term life and you have at the legislative level the power to opt out of that standard. We have seen very high success, high participation in our standards, which means they're very high, robust uniform standards. Here's another touch point that you may see. You may get in your emails from time to time an email from the IIPRC Public Notice. We are required to do so under the Compact statute as there are a lot of touch points put into this Compact and one is to send notice to all of our legislatures when we're about to adopt a uniform standard when it's under consideration. And here's who we send it to: the Presiding Officer of each Chamber; your majority and minority leaders of each Chambers; and the Chair and Ranking Member of each committee of insurance jurisdiction. So, these aren't junk mail and aren't spam. These are telling you the work that the Commission is doing on your behalf working with your state insurance departments. If you have any questions you are always welcome to call us. But also give your Commissioner a call because we work very closely with them and they support it.

Here are the benefits to everyone. States receive thoroughly reviewed products. We have actuaries, we have reviewers, and we look at products under detailed standards. It allows for your state resources to focus elsewhere. Your consumers, whether they've come into your state with a product they bought in another state, or one they have, they have access to products reviewed under those standards and with strong consumer protections. And companies don't – want to hear the call for Federal regulation and there's a lot of reasons for that, but I would say that this has really transformed the way companies are able to go through the product review and regulatory approval process as it is much more efficient. Today, 400 insurance companies use us. There's over 11,000 products that have been issued over the Compacting states. The speed to market is great as we're able to get to approval along with a careful review. And companies have shared so if you have a question about the Compact ask your companies as they're the ones that have that experience.

We're a joint public agency so we don't belong to the NAIC. They help us out and they're the bigger organization that gives us those services so we can do our core mission. But we are an arm of each of our Compacting states. Here's a good fact for you: we're revenue neutral to our states. We actually collect and remit to all of you, those of you that have filing fees, we remit those. So, it doesn't take away from any revenue and we've collected over \$27.5 million dollars for you. We have a couple of key issues going on at the Compact. We've kept Rep. Lehman, Rep. Fischer, and our legislative committee involved in those. There was a court case that didn't understand Compacts, which I would say is a little concerning for the state legislators as well as regulators. And that case said that without Congressional consent a state's general assembly could not delegate to the Compact the power to develop uniform standards that could conflict with the state law. And so that was concerning. We're looking at that and I think we're going to hopefully have a path forward working with our state legislators. I'd be happy to answer any questions.

Rep. Stephen Meskers (CT) stated that he is a little confused about the conflict in drafting model legislation and why that would be conflicted with Federal law or that your usurping power - ultimately we have to bring it back to our legislature, the model law has to be passed. And we have to agree within our legislative organization within our state that it doesn't conflict with our local law – is that correct?

Ms. Schutter stated that the Compact statute, the one you enacted, gave the Commission, which again is your member, the authority to develop uniform standards. And those uniform standards apply to the product. And as I said, they are based on model laws. If a state were to have a variance in the model law or with our uniform standard that state has the right to opt out. There's

a lot of our uniform standards that actually have more stringent protections, or more detailed protections than state law does. Our standards, when I say our I mean your, they cover every provision in a Compact and are very detailed so if there were a conflict, your state would work through that and talk, definitely within their DOI, as well as with the legislature. And states have opted out of our uniform standards because of that very reason.

Rep. Meskers asked if that is specific to a piece of legislation or have they opted out across the board because of the conflict? Ms. Schutter stated that it's more-so legislation. We had one state who opted out because an exclusion period was different than in their state law. Their legislature decided a certain exclusion period should be this and the uniform standard followed what the majority of states did. So, each state has the unfettered right to opt out of standard. You control your participation.

Rep. Lehman thanked Ms. Schutter for being here and said he offers a challenge to the other members of this Committee and to other members of NCOIL and that is to engage in this issue because the IIPRC has done great work over the years, and it's really opened my eyes more being the Chair of the legislative Committee. And I think there's some heavy lifting ahead of us and I think we need to stay engaged. So, I challenge NCOIL to stay the course and stay engaged. And if this is your area where you say I can really sink my teeth into this, let us know because we want to make sure NCOIL continues that seat at the table. Ms. Schutter stated that we are happy to meet with any states working with your DOI to give you even more detail about the work we do on your behalf.

DISCUSSION ON REGULATORY OBSTACLES TO THE RECRUITMENT AND RETENTION OF INSURANCE PRODUCERS

The Honorable Greg Serio, Partner & Managing Director at Park Strategies and former Superintendent of the New York Department of Financial Services (NY DFS) stated that his purpose here today is just to do a couple of introductions and to tee up an issue that we're working on and that I think it's something we would like to bring to your attention and make it part of your 2022 workstream. First of all, I represent Finseca which is the amalgam of the AALU and GAMA - GAMA was the General Agents and Management Association. AALU represented the life underwriters and they merged last year and they created Finseca which means essentially financial security for all. And in that role I serve as one of their State Advocacy Advisors and going around the country talking about Finseca and what we do as a profession. And I wanted to first, not only introduce you to Finseca but also to our newly minted Vice President of State Affairs Melissa Bova here on my right. Ms. Bova comes out of the State House in Harrisburg, PA. She is well versed in state legislative affairs. And she is a great addition to the Finseca team and she will be the lead on state legislative and regulatory affairs for Finseca and we are very happy to be working with her.

And one of the prime issues that we are working on that we wanted to bring to your attention is something that you have dealt with over the last couple of years in the context of COVID, but something that we believe needs far deeper analysis and far greater reengineering: the agent licensing process. I spent ten years at the NY DFS, I spent 12 years with the New York Legislature and I've been representing the life agent profession for the last seven years. And I will tell you that something that I always appreciated but didn't always have the opportunity to do something about was dealing with some of the statutory and regulatory impediments to licensing of agents. As the old slogan goes, this is not your father's life agent world anymore. It is a new environment and we are trying to deal with a mobile society and that's one of the things that came up during COVID. We're also trying to bring in the next generation of agents - a huge

issue for all of us. Agencies around the country are talking about they need to attract not just more agents but a more diverse group of agents.

The 2020 census has shown less than 15% of the agent force is from the Hispanic community. The Hispanic community, the single fastest growing economic component in the United States, only had the representation of less than 15% in the agency force. Less than 10% is black. Less than 6% is Asian. Now, we can say we have to go out and we have to recruit. But you start to look at some of those recruitment impediments and you say we need to significantly rethink our approach to agent licensing. And, because we're lawyers, we go back, and we start to look at the law. And we start to see things like the increasing arduousness of exam and pre-exam requirements. That's the first place we have to look.

The second place and a very close second, is the issue of first year agent compensation. Now, there are lots of stakeholders in that conversation. It's the agents, it's the general agents, it's the carriers, it's the Department, financial aspects, marketing aspects, production costs aspects. But for example, in New York, the cap on the subsidy for new agents is \$67,000.00 a year. That's it. Nobody is coming in or nobody's staying in the life insurance business past the first five years, if they're getting compensated \$67,000.00 a year as a subsidy. And you know what's happening - the guy from the investment bank, the retail investment bank down the street, is saying you can make a lot more money tomorrow, you don't have to wait for your third year, or fourth year, or fifth year to make money, to make real money. And so, we're not only not attracting people into the agency force to begin with, but we're losing them to the other financial services. And that's something that we have to take a very serious look at. And that by the way, in New York's example, is in statute. That is we think a statutory impediment to attracting a new generation of agents.

When my father came over from Sicily he went to dental school in New York and it was a dental school that was designed, it was NYU. Now, everybody thinks NYU is an Ivy League school but NYU was a school that trained people from the emerging communities to serve the emerging communities. So, there were lots of Italian dental students, lots of Jewish dental students for the influx of people from those communities. That's what we're trying to do with the agent profession - bring in those folks who are going to serve their own communities going forward. And that we need to do is think outside the box, how do we do that? What Finseca is planning on doing, of course speaking with all the various stakeholders and our friends, we had a great conversation last night about this very issue with some folks here. And what we are planning to do is come back to you in March, no later than March for the March NCOIL meeting with a piece of draft model legislation that starts to address some of these issues and hopefully have a Model Act on a reengineering of the licensing process.

We want to promote mentorships. We want to get out of the regulatory strictures, and I enforced them, so I know exactly how they're built. But we need to rethink this for more authority and more responsibility in the hands of the general agent because the general agent is asking for these folks to come in. Our membership is saying, we need new people. And if they're willing to take on that obligation, and you already know, and this is in Congress to the way the statute is built, carriers are ultimately responsible anyway from a market conduct standpoint and other things. And when I was in regulation we always looked to the carrier if there were things, bad things happening, if you will in the agency force and on the street. They're already there. And the funny thing is that the law doesn't even recognize the role of the carrier or the general agent in the development, in the mentorship of new agents. The Honorable George Nichols, former NAIC President and former Kentucky Insurance Commissioner, and I had a conversation last year about mentorships. And he and I agreed that mentorships are the single best way to have

new agents get past the first five years of being in the life insurance business. And I think that a law has to reflect the value of mentorships. And if you do that you can change the examination process, you can change the education process, and you can change the continuing education process and take away some of those things that have been inherent roadblocks to people thriving in the agency world beyond the first five years.

This is an ambitious project by Finseca and others in the profession. But we know that the time is now building on some of the changes from COVID and that we have a place to go and an objective to achieve. The last thing that I'll say is that this comes on the heels of a report from the Hispanic Leadership Foundation which just came out talking about products. Now, the other side of the coin of getting agents in the community is giving them something to sell. And they report on the regressive impact of the 2016 Department of Labor (DOL) rule that came out. We all know about the fiduciary rule, the regressive impact of it and how it affects lower income and minority communities more than any place else. Why? You put more burdens on trying to produce a single life insurance product and you will get people discouraged from selling those lower end products.

The same thing is happening in New York with Regulation 187, and we told the NY DFS on day one that 187 will have a chilling effect on serving some of these communities that need life insurance products the most. And we told them that, and NY Senator Neil Breslin, former NCOIL President, is sponsoring a bill in New York to create a safe harbor for life insurance products, term products under \$1 million dollars face value to get it out of the strictures of Regulation 187 so that we can encourage producers to sell these products to the people who most need them. And now, the Hispanic Leadership Foundation has now quantified and has now officially determined through its research that some of these rules are actually having a negative effect on the people we are trying to serve the most. So, agent licensing reform and some of the rule reform are two sides of the same coin. We appreciate very much the receptivity of NCOIL to bring up this topic before you and to work with you over the course of the next year to bring this to fruition.

Sen. Beverly Gossage (KS) stated that as a health and life insurance agent she writes these products and as former President of Kansas' Association of Health Underwriters, she has seen some of these same issues. Sen. Gossage asked Supt. Serio to repeat his main points as Sen. Gossage had to leave the room for a few minutes during his testimony.

Supt. Serio stated that number one is that examination and pre-examination education has to be fundamentally reformed as that is an inherent roadblock. People see how many hours that have to go into it and they say, I just can't do it particularly when they have somebody whispering in their ear, "don't worry you can come with us." And then, number two is the issue of compensation reform because some of the other guys don't have the same strictures that we do. If you look in the agent licensing statutes in most states, you will not find those compensation restrictions. Go to the carrier sections of statutes and you'll find restrictions on what carriers can pay. It's a carrier financial restriction but it impacts the agent. Number three is the promotion of mentorships and using mentorships to actually do some of the things that we're already trying to accomplish in the law through education, pre-licensing education, and continuing education, and have that built into the mentorship and give carriers and general agents credit for promoting and for supporting mentorship programs.

There is a movement in the marketplace and other areas of licensing where we're getting out of the business of the state managing the examination process. If the state says, this is a good exam but we don't need to run it and let trade associations run it, let other organizations run the

exams that have been approved by the Departments. And by the way, another adjunct to this is, "approved by the Departments in various states." One thing that we are looking at also is the notion of enhancing reciprocity between the states. You move from one state to the other, you give up your license in one state, that doesn't mean that you're getting your license in the other state right away. Why isn't there a bridge of reciprocity when you move from one place to the other, until that state has executed and issued your license. And then it's finally getting the products to the market that these new agents particularly in new and emerging communities so they can sell to their clientele. And that is as important as any of the other provisions that I just mentioned.

Sen. Gossage stated that we're basically talking about captive agents here as opposed to independent agents, so that they can get that first-year commission right away and not have to wait three or four months before they get that first commission check. Sen. Gossage asked Supt. Serio if he has visited with any of the carriers about some of his recommendations? Supt. Serio stated that we've just started the process as we wanted to get a framework together to start to socialize the framework. We know everybody's been talking about it, but we needed to go to the next level and put a framework together that people can look at and use a red pen on. But we need to have a construct and so what we have in Finseca is that we just reviewed this with our state advocacy working group on Wednesday and we are going to be socializing this with others including the American Council of Life Insurers (ACLI) to get their input and request their feedback. We will also talk to individual carriers as well. Frankly, I think we're all in concert on this notion that we need to do something about agent licensing. Speaking for New York, we haven't had an agent license modernization in years. Article 21 needs to just be started all over again and frankly, for licenses across the spectrum, not just life agent licensing. But we do need buy-in by all the stakeholders in order to really make this work.

Sen. Gossage stated that regarding reciprocity, I'm licensed in half the states and it's just a matter of paying your \$100-150 every two years or so through the National Insurance Producer Registry (NIPR) and I haven't found that to be a barrier but perhaps there are some states in which I'm not licensed that that would be true. Supt. Serio stated that there are people who are not licensed in all states and because we're a very mobile society now, we had a member talk about this just the other day on our working crew call - they're moving from New York to another state. They give up their New York license, going to the other state. But that other state has not issued a license. Now, are you putting that experience, it's not a new agent, you're putting an experienced licensed agent on the shelf because they haven't gotten their license yet. And it may happen in cases where you were not anticipating to be moving to that state, but you still need to be licensed. They're earnestly trying to be compliant, but the problem is that they don't get that bridge. And so, building a bridge to use the old license while they're in the new place for a period of time. By the way, in working through the NAIC, everybody's talking at the same table anyway, whether through NIPR or elsewhere, but can we construct a bridge that works so that somebody can continue the business in a place they weren't thinking about being in. And you're right, it's de minimis in terms of the fee, but can we enhance the ease of licensing for those people as well so that they continue operating. Sen. Gossage noted that is particularly true for those who are moving, because you're right that is a different situation than having your in-state license and then your out-of-state license.

Sen. Lana Theis (MI) stated that she understands what Supt. Serio is saying about the difficulty of getting agents. We have difficulty getting employees in every single area of the entire country right now. But this is a particular area that has had difficulty getting people into this for years so this isn't new. I do have some questions with respect to your commentary about the reform for licensure. Was the bar set too high?

Supt. Serio stated no, I don't think it's a bar issue in terms of capability and attracting good people and good candidates. I think the problem is we're discouraging good candidates with the other bars, the non-qualitative bars, like the number of hours of licensing, like the ability to start to earn a living that maybe they were expecting to earn being in this profession sooner. I never thought about it in terms of a bar being set too high. I think the regulation was trying to be too careful in terms of how we protect against over expense of production of costs. Paying agents who are not producing business, things like that. I think we've been too tepid if you will on who we are, or who we were trying to bring in and get through the profession. So, I think if you take it from a regulatory mindset, that's what we were. The regulatory mindset is always overprotective. But I think if we understand where the points of responsibility are and especially if carriers or general agents are willing to take on more responsibility in order to get people in, I think that's a sufficient trade off. And I think regulators are going to have to exhale a little bit and let some of that work because they already know that the regulatory process is that I would still have somebody I can hold accountable. That's what the regulators are always concerned about. There are multiple people in the chain who are accountable if something goes wrong with a new agent recruit. Why then, I would ask, do you have all those other regulatory strictures in place when the marketplace has already accounted for it by holding the carrier, or the general agent responsible for it. This is a question I had all during regulation and even talking to the regulators now, I still ask that question. If you have this ultimate authority, why are there all these kinds of intermediary hurdles that you're insisting on people jumping over just to get to that point if you still have this plenary regulatory oversight. So, maybe that bar was set too high.

Sen. Theis stated that she was going to suggest that we're parsing words because everything you're saying to me is a different bar that they have to jump over. Sen. Theis stated that she understands and doesn't disagree with what you're saying. I'm a huge fan of deregulating wherever we possibly can in order to encourage participation in the market. But I would also suggest that if we're going to change the rules, we should change it for everybody. Because somebody who isn't capable of buying a higher-level policy should have the same standards in their agent as someone who is capable of buying that. There shouldn't be one rule for less and another rule for more.

Supt. Serio stated that he didn't mean to imply that and I'll take a step back on the two sets of rules. I've always been of the belief, no matter who I've represented, no matter the time and regulation, that agents worked in the best interest of their clients. Because of these bars we're talking about and because of the fact that there's so many checks and balances that, it's never been an issue, and I always find it kind of silly that we're always worried about an agent selling somebody too much insurance. Because there's so many checks and balances in that process for a carrier or underwriter to look at it and say, this doesn't fit with that person's profile. We're not about to go on a hook for \$10 million for somebody who doesn't clearly fit that prospective. But we built a rule thinking that people are going to be oversold. That's the premise of 187 and it's just antithetical to how life insurance is actually sold. And I'm talking about the process of the sales, not just what's being spoken about across the kitchen table.

The other part of it is that if you have been selling a \$10 million policy, that person at the other side of the table can't afford that policy. And they know it too. So, I think it's the regulatory approach that has been too paternalistic and unnecessarily protective when you have all these other safeguards in place in the system. And some of the rules that are coming out, and I agree everybody should have the same guarantee, and the same assurance that the agent is working in their best interest, whether selling them an annuity or a \$50,000 term policy. But that's not where those rules have gotten us. All we have found out is that it's actually cutting off people

from getting access to starter life insurance products, starter financial products. Nobody starts at a \$2 million policy. We start at a \$50,000 term policy. Well, guess what, when a term policy transaction looks like a house closing in the amount of paperwork that you have, which is exactly what 187 has created, and we explained this to the Department, you've lost the value of the relationship in all the paperwork that's there. With a house closing, you come in, you come out and there's not a relationship there. With a life insurance advisor relationship, that is a relationship that will transcend their lives because they'll move up, and they'll get better products as their economic fortunes increase. And if you talk to anybody, and I mentioned my father earlier, we lived off of Northwestern Mutual Life products because my aunt worked for the company. And so we started with the Northwestern starter kit and worked our way up as my family's fortune improved. That's what we do. And so, I don't think there's an inherent fear that people aren't getting the same level of protection whether they're buying a \$50,000 policy or a \$2 million dollar annuity.

Sen. Theis stated that perhaps she misunderstood Supt. Serio because he spoke to a carveout which to me is exactly that. Supt. Serio stated that yes, I did - a safe harbor. And again, we're not talking about two different levels. But what New York did, is that New York took the annuity protection and by the way, this exists in the law right now everywhere. You have these higher protections for annuity sales and more complex sales. We have been talking about it in the terms of two levels of protection, and that's not really it. We're talking about two different levels of product. We're talking about two different transactions. If you have the requisite protection for a term sale that translates to the same level of protection when you try to do a complex product sale, then I think we've achieved it. But they try to do a one size fits all, certainly in New York. They try to do a one size fits all and what it did, and the DOL's rule is the same way as the Foundation found out, it had the untoward and unintended consequence of actually discouraging sales at the lower end of the marketplace. And that's what we're trying to fix. We'll figure out to make sure that those folks are being as protected as the people at the upper end of it. And I don't think you're going to do anything that won't assure that as well. But I think the way they've been coming at it, and I think what the Foundation's core belief is, is that we haven't been doing it the right way. We have to reengineer that process.

Rep. Meskers stated that the presentations to me were relatively complex in the requested framework. Is it that the regulations across the states are that disparate or is it that the licensing is that disparate in terms of getting uniform licensing? The second question, which seemed to focus on compensation issues and retention, it's a problem from a competitive structure that the people who would be qualified to enter into this financial product sales are going to go elsewhere because they don't have the same caps, and so your suggestion is we need to lift the caps, to allow the markets to determine what levels people should be able to be compensated at so you can attract the proper talent levels, is that where we're at? Supt. Serio replied yes. Rep. Meskers stated then back on the other issue then of licensing, I worked in the securities industry and it was uniform with a blue sky with a state subsidy - a separate state licensing, so you'd go through a seven and sixty-three and twenty-four, etc. Rep. Meskers asked if it is the case that we don't have that framework within Supt. Serio's product line and is he suggesting we need to get to that type of a licensing program?

Supt. Serio stated that we weren't necessarily suggesting a uniformity issue. I think we were trying to focus on that they issue specifically and I think uniformity would certainly be the best way to have it that you have uniformity, predictability, on compensation so that people can say, yes I'm going into this business and I am going to make this amount. Rep. Meskers stated that he was referring to licensing, not compensation, and regarding the practice across state lines, is it that we don't have a uniform process to license people? Supt. Serio stated that he thinks that

answer's yes and I think we need to look at the question of uniformity of compensation. And I think we need to look at the basic level of compensation. Everybody says they want their kids to be doctors and lawyers. And why - because in their head they're thinking compensation is good. It's a good living, things like that. I think what we want to do is put that same notion in the profession that life agency is a profession that there is adequate compensation in that you don't have people washing out after the first few years. Our New York President has said, if he did not get through it he would never try this again. He's been in the business fifteen years and he would never try it again because there's just not certainty of compensation and there's not uniformity of compensation.

Asm. Ken Blankenbush (NY) stated that for someone who has lived in New York and was licensed in New York and I was one of those sales managers who was in charge of recruiting and training. We always were told and I hope it's a little bit of change now, but it was almost opposite with the regional managers and the district managers of a company for the first year, and I'm talking about first year salary caps. We were told then, let's not start them at the highest level of income because of the fact that these companies are going to come back and say, you have a production requirement and it really hurts in the second year if in fact you set their salary so high that they cannot hit the mark and the reason I'm bringing that up is because when you talk about New York, and I'm sure other states have the same problem, when you talk about NYC and when you talk about Westchester County, when you talk about all of the places that a \$1 million policy is nothing, but then come to where I live in upstate New York where a \$50,000 or \$100,000 policy is probably one or two years of salary for many of the people where I service. And the problem was trying to get the agent to produce the same amount of business that Westchester can. I had friends in Nyack for example, where the minimum policy in Nyack was x amount of dollars. So, what we were doing is we were really trying to put pressure on our young producers because the companies were saying they must produce x amount. Asm. Blankenbush asked Supt. Serio, since he hasn't done this in a while, has he seen a change in the philosophy of the companies themselves?

Asm. Blankenbush's second question relates to the fact that in my area, right now there isn't a Prudential agent, there isn't a MetLife agent, and there isn't a Hancock agent. I can name all of the companies that used to have 10 to 20 people in my area and now there are zero - customer service is bad because we don't have enough of the agents and I'm just wondering with the companies, of course MetLife, their philosophy was they sold it to Mass Mutual, we're sitting here talking about the \$67,000 cap which really isn't high in New York City but still where I live would be an okay starting salary. So, I'm just wondering if all of the companies now are getting to the point where they say, it may not fit where I live, but if I lived down near the City with higher income levels it might. As a manager, I always had that problem trying to convince a regional manager for example, they want us to sell a maximum premium and it just didn't work in a lot of the instances and I think that caused a lot of the problems of losing agents - losing good agents.

Supt. Serio stated that those are two issues. Number one, I think what we're trying to do is approach it as a profession and not have these wild economic fluctuations. And you're absolutely right, I've lived in both worlds in New York and I know what the difference is. I can't speak for the companies but my own experience is that the companies were just exacerbated for all sorts of reasons such as lots of regulatory overreach and restrictions that they would back out of the market for a whole host of reasons. A lot of them are regulatory in nature. I'm just trying to deal with the agent issue for the moment. But I think there are a lot of reasons but the effect is still the same. They pull out of a market, they take the agent away, and it is what we call essentially a constructive withdrawal. Yes, they're still in the market but you just can't find them. Because you don't have an agent nearby, they effectively have withdrawn from the market

whether they've done so formally or not. And a lot of the things that I've heard, I couldn't blame them for how hard it was getting to do some of this. And I think some of them, some of the conversations I've had over the years are right along those lines that carrier and agent interests are aligned on how do you promote agents and keep agents, because the cost of bringing an agent online, you don't want to lose a candidate in the first year or second year because all your costs are already into that agent with onboarding and everybody loses if that agent doesn't stay in and that's what we're trying to prevent.

Asm. Blankenbush stated that the problem is what's going to happen in the second year. Supt. Serio replied yes – they are focusing on the first five years.

Wes Bissett, Senior Counsel, Gov't Affairs at the Independent Insurance Agents & Brokers of America (IIABA), stated that the IIABA is very interested to review the framework that Finseca is talking about but I would like to talk briefly about some of the requirements that apply to actually get that initial license. From our perspective, there's not the barriers to entry that Supt. Serio has suggested - states do require you in your resident state to complete and to pass an exam. We have not found that to be a significant barrier to entry. We would be very strongly opposed to any efforts to kind of dumb down that exam. In terms of the licensing requirement, that needs to be completed before you pass that exam. Many states don't have any education requirements whatsoever as there's a zero hour requirement. Other states do require up to twenty hours. But it's only twenty and it's not a significant barrier. States have moved very quickly towards reciprocity; we've not encountered the problems that Supt. Serio mentioned with agents moving from one state to another. The NAIC's producer licensing model act already addresses that. We're also seeing states move to a system where you can take the exam online. And in states where pre-licensing is required, online education can generally be completed as well. So, the licensing part of it doesn't seem to be the burden. But if states are, in some of these other areas, regulating things related to compensation or retention we would agree with Supt. Serio and Finseca that those would be issues worth pursuing. But some of the others we'd be somewhat concerned about getting into especially if it comes down to dumbing down standards as part of the process.

Supt. Serio stated that we're not going to dumb down any process. I think that was the answer to the question before as I'm not sure that is even in the thought process. I think what we're trying to do is reimagine how we do this and I don't think having the private sector do examinations that are approved by the Department is dumbing down the process at all. And I don't think we talked anything about reducing qualifications and if we are going to continue to provide the same level of service, we can't dumb it down. But the bottom line is that there are enough people who are accountable in the system that I don't think we have to worry about that because they're still going to look to attract the kind of people that they will be proud to be serving with and I don't think that dumbing down is anywhere in that equation.

PRESENTATION ON PROTECTING VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION

Maeghan Gale, Director of State Gov't Relations at the National Association of Insurance and Financial Advisors (NAIFA), stated that she, along with her colleague, Michael Hedge, Policy Director, Gov't Relations, are here to talk today about senior financial protection.

Mr. Hedge thanked the Committee for the opportunity to speak and stated that he focuses on federal financial services issues and works with the U.S. House Financial Services Committee and the U.S. Senate Banking Committee and the U.S. Senate Special Committee on Aging. He

has worked for two Members of the House of Representatives and he has been doing NAIFA's lobbying on the financial services side as mentioned since then. NAIFA is the preeminent membership association for the international multi-generational community of financial professionals in the United States. We have fifty-three state and territorial chapters and thirty-five large metropolitan local chapters. We have members in every congressional district of the country and we advocate on behalf of producers and consumers at the State, interstate and Federal levels. And we have a very strong vested interest in senior protection. When I started with NAIFA which was just six years - I looked at the portfolio that I was picking up and I said where can we be more proactive on the Federal side? And senior protection was one of those issues we'd worked in for a long time but I really thought there was room for growth and what we could do, and also how we can collaborate with state legislatures at the same time. And so, we're going to talk about senior protection; some Federal trends; the Senior Safe Act which is a legislative piece that's now law that I worked on intimately; and some other stuff with the Financial Industry Regulatory Authority (FINRA); and then Ms. Gale is going to talk a little bit about some North American Securities Administrators Association (NASAA) model language that we've been pushing and what needs to be improved and tweaked on in that language as well.

Starting with senior protection, when a person retires, their need for insurance and financial service guidance doesn't end. In fact, for many it's just the beginning. Financial advisors help their retired clients adjust their budgets, they estimate expenses, develop disbursement strategy for the retirement savings accounts, find healthcare as well as limited and extended care solutions, and create legacies to leave for loved ones and for charities. And financial advisors also provide front line protection against scams targeting older Americans. Now, how do NAIFA members help? And, this applies to financial advisors in general but obviously I work most closely with our own members: understanding social security utilization of social security and planning processes; Medicare enrollments; understanding and navigating Medicare; annuitizing 401K's; Medicare supplemental policies; financial planning or downsizing; emergency preparedness; charitable giving; and estate planning. Those are some of the primary areas that our members and financial advisors work in.

And I want to go right into some of our work with the Special Committee on Aging. When a person retires that's really when they start to become more vulnerable in terms of their financial spending because they're looking at access areas that hadn't previously been accessed in their financial portfolios. And the Aging Committee right now is doing an annual outreach to stakeholders. So, basically the Aging Committee is currently gathering information for its annual report that seeks to inform policymakers in Congress. And I wanted to provide a brief overview of what they're doing on the Federal side and what they're looking at currently. And so basically the Ranking Member and the Chairman put out a call, they're looking for comments from among other professionals who assist seniors and people with disabilities in making decisions about claiming social security, enrolling in Medicare, annuitizing a 401K, downsizing a home, giving to a charity, and responding to natural disaster loss. So that's what the Aging Committee is seeking comment on right now and the types of information and skills that are necessary, that's what they're looking to us for answers for. And I've worked specifically with Senator Tim Scott from South Carolina who's reached out and asked for details as to what NAIFA has been doing on these issues.

And sources of confusion and mistakes when making these decisions is also what they're very much interested in right now such as possible sources of abuse when making decisions and fraud and scams that have been cropping up more recently again. We conducted a survey of our membership to really see how involved financial advisors in general are with seniors and as you can see here from the respondents that we got 100% provide financial services to older

Americans. That might seem self explanatory, but the reality is when you look at one in five older Americans are victims of financial exploitation and you're looking at \$125,000 loss on average, that's a protected class that really doesn't get all the attention that it sometimes needs. And when you're looking at it, I have up here the U.S. financial industry loses roughly \$1 billion every year because of exploitation of adults over 50. I've seen numbers as high as \$2.9 billion from the Government Accountability Office (GAO) in terms of senior losses per annual year through exploitation and fraud. So, of the respondents, 100% worked with clients of retirement age and 100% had also developed strategies to increase the confidence of older Americans in trusting their financial advice with over 59.8% ensuring that inclusion and involvement of a trusted person of the older client is involved in the decision making process. So, we've worked extensively with our advisors on how to better serve their clients at the senior level and one of the things we've done is we worked with AARP very closely to develop a program called Bank Safe and it helps spot and prevent financial exploitation of seniors and that's really been very useful. There's been a lot of positive response from different government agencies in terms of the practicality and what it seeks to accomplish.

Discussing the ethics component of the membership they hold with NAIFA is also one of those things that really helps instill confidence in the senior client. Regarding Bank Safe, it's basically NAIFA and AARP developed this new core specifically for financial advisors, and it has the potential to exponentially increase our collective impact on the fight against financial exploitation. It protects millions of older adults from losing their hard-earned savings and the financial advisor Bank Safe training platform arms NAIFA's representatives for the ability to take better confidence in dealing with their clients. AARP really had the expertise obviously serving the retirement base of American consumers whereas we were able to work with our advisors and get them involved with the program as to how to best develop and address the concerns that senior savers have and also, the family members of senior savers.

Moving on, I want to talk about the Senior Safe Act because this is Federal law and some of you may be aware of it and some of you may not be. According to a 2008 GAO report, which I cited just a moment ago, financial fraud targeting older Americans is a growing epidemic that costs seniors up to \$2.9 billion dollars a year and too often vulnerable seniors are victims of actions by unscrupulous individuals. It's often family members as family members are one of the primary, if not the primary source of fraud committed against their older relatives. And in the coming years, millions of Americans will be transitioning from the workforce into retirement and will be living on fixed incomes and other assets that need to be preserved to protect their financial independence and security. And our members continue to lead this vital effort in protecting our nation's seniors. Basically, the Senior Safe Act allows agents and advisors to report suspicious financial activity and creates a safety umbrella, an immunity if you will, for reporting any potential fraud on a client's accounts without having to be worried about violating privacy restrictions upon that financial professional.

I worked very closely with the bill's sponsors, one of which was Susan Collins from Maine and she based the bill on the 2014 initiative by the Maine Council on Elder Abuse and Prevention. At that time she was Chair of the Special Committee on Aging in the U.S. Senate and when she introduced the bill it dealt only with securities investment and did not address insurance at all. A companion bill was introduced in the House by then Congresswoman Kirsten Sinema of Arizona and I worked with her staff to get a full umbrella immunity protection for insurance. And so, as I said, it essentially creates a safe harbor for financial professionals to report suspected criminal activity without fear of violating privacy law. The immunity established by the Senior Safe Act is provided on the condition that certain employees receive training on how to identify and report exploitative activities against seniors before making a report and that reporting of suspected

exploitation are made in good faith and with reasonable care. The immunity applies to employees in firms, and what it does is, in order to qualify for immunity there are steps. You have to actually be trained, you have to belong to a covered financial institution, and you have to have the actual wherewithal working with the certain protected class that's encompassed by this legislation. Now, what's great about it is, it really covers insurance producers and it covers the registered representatives of broker dealers. It covers investment advisors. And what we've seen is the attempt in Maine to rectify this, there's been a 50% increase in Maine in reporting financial fraud against seniors since the Maine Council on Elder Abuse enacted that kind of prevention.

They're looking at doing studies right now to see if there's been any effective positivity in an overall increase by implementing this as law on the Federal level. It is important to point out that the law does not countermand State law as it is a complementary law. If a state has a weaker provision or protection for immunity for reporting financial abuse then the Federal law comes into effect in that state. But if the state actually has a more stringent or better protection in place, then the State Law supersedes the Federal law on that aspect. And that's one of the things we really worked for and we are very committed to keeping insurance oversight at the state level, but having a uniform policy at the Federal level to strengthen state programs is also something that's been very useful for us.

Another bill that was introduced in 2019 by Congressman Josh Gottheimer from New Jersey in the House of Representatives was the Senior Security Act 2019. It did pass the House and was introduced by Senator Krysten Sinema in the Senate and it failed to get any traction and didn't make it out of Committee. But this basically is a companion piece to the Senior Safe Act and what it would have done is create a task force and Commissions at the SEC to do more studies on how seniors are exploited. And that's something that we think is really important. What's interesting is that on Monday, Congressman Gottheimer introduced another bill that was passed out of the House Financial Services Committee, and in this one it would authorize Federal grants to states to support senior investor rights. And basically, the Act that was introduced on Monday would grant funds to states for hiring staff and identifying and investigating and prosecuting cases involving senior fraud. It would also help states fund technology, equipment and training for regulators, prosecutors and law enforcement officers in order to investigate and prosecute that fraud.

We have a really good working relationship with Congressman Gottheimer and the senior protection issue is something that he believes firmly in. He was elected to Congress after the first time Senior Safe was introduced but from the moment he got into Congress he really looked at his District and said, "I want to help protect the seniors of my District and I'm going to be very proactive with this." I've talked to him about this new bill that was introduced and I don't know the feeling yet in terms of whether it will make it on to the agenda for a vote but I haven't seen anything negative yet. There is no specific directive where money must be spent by the State specifically - it gives guidance on spending those dollars by the State to help protect and increase their programs that are in existence. It doesn't create any additional Federal laws - it is a very pro-state Federal piece of grant legislation.

I want to touch very briefly on FINRA and some of the stuff we worked on with FINRA's adopted Rule 2165 to permit members to place temporary holds on financial transactions. Basically, the model was, and this is an actual case, that you would have an older woman, she was 70 years old, and she came into her financial institution with her nephew and she said she was withdrawing \$10,000 to give to her nephew to send to Canada to make an investment. The person working at the disbursement center, said, "This looks suspicious, I don't believe this

money's going to be allocated to her best interest." And so the transaction was frozen but at that time, it was a seven day hold and seven days later, she came back and withdrew \$10,000 from the same financial institution, sent it to Canada, and that money was gone. She had been a victim of fraud. And so even though the disburser of the funds had the wherewithal to say, "No, this isn't a good decision" the law would not back him up in terms of making a permanent asset freeze. The FINRA rule is specifically looking at a case by case basis and not freezing entire accounts but freezing certain transactions. I will now pass it over to my colleague, Ms. Gale.

Ms. Gale stated that to bring this back to the states, this is a very important issue and we've seen a lot more prevalence of senior fraud and it's important that the states laws and regulations work well with the new Federal things we're seeing. In 2016, NASAA adopted its Model to protect vulnerable adults from financial exploitation and it gives the industry participants and state regulators these new tools to detect and prevent financial exploitation. Under the Model, the eligible adults are those 65 and older but the Model mandates reporting to state securities regulators in state adult protective service agencies when a qualified individual has a reasonable belief that the financial exploitation of an eligible adult has attempted and has occurred. We've seen pretty good adoption of this as according to NASAA the Model or similar law including several that predated the Model have been adopted in 34 jurisdictions since NASAA members voted on it in 2016.

That is pretty good coverage but not universal. When NAIFA was working with NASAA on this Model there were a couple of points that we felt were really important and wanted to bring to your attention. From an insurance producer perspective, we support the Model and have been active in advancing its passage in a number of states but we support a voluntary, not mandatory, reporting process. This mandatory notification could result in firms and advisors reporting an excess number of transactions sometimes based on limited evidence or suspicion just to avoid legal liability and you want to avoid those cry wolf situations. And to better protect client's assets from financial losses, advisors should have the flexibility to determine whether disbursement is connected with exploitation since they truly are the ones with the relationship in that front line defense. Also, to permit advisors to report financial suspected exploitation to firms rather than directly to the authorities and that this determination of whether it should be reported to the authorities should come at that firm level. That additional set of eyes and that additional level of comfort for those front-line advisors is important.

So, while the first two bullets that we've talked about here don't necessarily align with the NASAA Model, the third bullet, where it creates a legal safe harbor for advisors who report suspected financial exploitation, we believe that advisors should be immune from legal liability and protecting them from the situations of if they had to violate client's privacies in situations is important. So, I promised to be brief. As we continue the fight to protect seniors, there's been some pretty large instances we've seen in the news lately about this. It could be worth a second set of eyes on how we can protect seniors on the state level. And of course, NAIFA is always here. We work with our senior members daily and recognize that they are in need and through advocacy and education we want to make sure that we provide the protection and they receive it and we are here to be an asset for you as you look at this issue.

Sen. Utke thanked Ms. Gale for the presentation and stated that since she sat through the prior topic, did she have any comments or any questions concerning that? Ms. Gale stated I think we would just echo the comments made by Mr. Bissett. Sen. Utke thanked everyone for speaking and noted that while time is running out, all of the speakers can be reached out in the hallway or after the conference.

UPDATE ON PAID FAMILY MEDICAL LEAVE (PFML) DEVELOPMENTS

Karen Melchert, Regional Vice President, State Relations at the ACLI, thanked the Committee for the opportunity to speak and said that she is here to provide an update on work ACLI has been doing on PFML over the past year and a half. At the NCOIL March 2020 meeting in Charlotte right before the world shut down, I, along with my colleague, came before you to tell you about a proposal ACLI had been working on to allow for insurers to offer PFML coverage as an insurance product. While ACLI is still pursuing that goal, our focus has changed just a bit as Congress has been debating including PFML in the Build Back Better Act and what that would look like and how it would be paid for. We have been advocating for the creation of a public private partnership that offers a private option for those that want it, alongside a government program for those that do not have access to employer provider benefits. America's life insurance companies are eager to work with private employers and government to expand this crucial coverage. Private insurers have assisted states in the administration of PFML for decades. This has resulted in timely claims payments and valuable services to both employers and employees.

In New York, the private sector worked closely with the state to expand its existing disability income program when they added the PFML component to it. Private carriers oversee and deliver most of the New York disability income and PFML program both for public salaried employees and for independent contractors and gig workers. This public private partnership is extremely efficient for both regulators, insurers and employers and their employees. Massachusetts recently created a public program to deliver PFML benefits but did give employers the choice to provide benefits through a private sector plan that meets or exceeds the standards of the government program. With coverage available from more than 20 private carriers, and many employers providing self insured benefits, the private sector helps ensure all Massachusetts workers receive paid leave benefits while reducing the burden on government to process claims and other payments.

When we presented to you in March in 2020, ACLI had been working on a model law that would enable licensed disability carriers to file products with state insurance departments to offer PFML benefits. Disability insurers are well equipped to offer family leave benefits. We have the experience, the expertise, and infrastructure in place to begin working towards providing these benefits, either through employer sponsored group insurance products, or voluntary purchased policies. And disability insurance currently provides the most extensive coverage to employees for wage replacement purposes. Following our presentation last March, we continued to have conversations with regulators and legislatures in states that were considering or interested in a PFML program. Our proposal was well received, but when we continued these discussions we began to realize that our solution was really two fold. It required a statutory action and regulatory action. But the issue that remains, and when we first brought this to you, is that there is no ability for insurers to offer this product unless the statutory change is made to add that as a line of authority under state law.

In the summer of 2021, ACLI was part of a task force with the Virginia Bureau of Insurance to create that new line of authority that would allow insurers to write these policies. They're closely tied to the Federal Family Medical Leave Act, so there's eliminating the confusion of eligibility leave time and administration and because there is no current line of authority in Virginia law to write family leave, we are working with them to draft legislation that would provide that line of authority. And then the remainder of our model law that we had presented to you in 2020 would become the regulatory piece of that effort. So, what are we asking of you? For starters, when your state is considering a PFML program, make sure that you and your state insurance

regulator are included in the conversation and then bring carriers into the conversation as well. We are the people who are best equipped to determine how best to build a PFML program. And as we work with Virginia to craft our path forward, we envision creating a new model law that we hope to bring to you for consideration starting in March at the Las Vegas meeting. We believe it's important that NCOIL members and your fellow insurance legislators who already appreciate the role insurers play in providing medical benefits through disability coverage are involved in this discussion surrounding family leave insurance benefits in your state. We want to be part of the solution to providing this extremely important benefit for today's workforce.

Dave Lujan, President and CEO of Children's Action Alliance in Arizona, stated that PFML law is one of the policy issues that we advocate for here in Arizona. With PFML currently in the United States, 23% of workers in the United States have access to it. And so that is why there's been a real effort around the country and nationally to enact the state policies around PFML and as was mentioned, there's a national effort right now through the Build Back Better Plan. There's a measure that actually passed this morning that includes a PFML component in it for a national program but it's likely, and most people I think expect that portion that's in Build Back Better will get stripped out when it gets to the Senate. So, that is why a number of states in recent years have been enacting their own state PFML laws. So, currently we have nine states and the District of Columbia that have enacted PFML laws but I think you can expect to see that in many other states around the country you're going to see efforts to introduce and try and pass similar laws in other states.

So, of those nine states that have passed laws, they're all different but there's a lot of similarities in them. So, I thought I would just give you just some key features of what the state PFML laws look like. And in all of these states, they're basically set up as social insurance programs, so they're generally set up so that both the employee and the employers make payroll contributions to help fund them. And in all of the states the acceptable reasons for taking PFML include caring for a newborn child, caring for a family member with serious health conditions, or caring for your own serious health condition. When you talk about family members, which family members? Well, in most states that includes your own children, step children, parents, spouse, domestic partners, grandparents, grandchildren and in some states you also can take leave to care for siblings. The state laws vary in terms of how long and how much PFML you can take. I think in most of the states it's twelve weeks of maximum leave, but some states are eight.

Regarding funding, in most states, they're funded jointly by employer and employee payroll contributions. What those contributions are vary by state. Generally, from 0.4% to 1% of the employees' wages. Small employers are typically exempt in most of these states. Typically, it's 25 or fewer employees to be exempt from having to make contributions. And the benefit amounts range from 50-90% percent of the person's wages. So, if you go on paid leave, most states what they do is they have a sliding scale. So, the lower wage you make, you are entitled to a higher percentage of your income in PFML. So, those lower paid employees typically will get about 90% of their wages if they go on leave whereas the ones who are making more will typically get only about 50% of their wages. And then I mentioned there's a national proposal in the Build Back Better plan - that one is a much scaled down version of what you see here from the states if that indeed gets passed the Federal PFML will offer four weeks, currently that's what's in the bill, of paid leave per year.

Rep. Deborah Ferguson (AR), asked, in states, if you're talking about disability insurance being the administrator, is that an RFP where it's just one disability insurer that it's contracted with or is it available to numerous disability insurers? Ms. Melchert stated that she thinks it varies. What we're talking about is not just being the state administrator like in Massachusetts there is a state

administrator for the state portion of it. We're talking about being the private sector solution for employers who opt out of the state program. But yes, in Massachusetts, I believe there's one company that runs the government side of it. But there are twenty carriers that offer, it's similar to disability but it's family leave, and there about twenty carriers that are licensed to offer that in Massachusetts. So, it's truly a combination.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Ferguson and seconded by Sen. Hackett, the Committee adjourned at 10:30 a.m.