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Asm. Ken Cooley, CA  
President



Thomas B. Considine  
NCOIL CEO



Asm. Kevin Cahill, NY  
Vice President

## NCOIL Concludes Successful Spring Meeting in Las Vegas, NV

Manasquan, NJ – The National Council of Insurance Legislators (NCOIL), the nation’s premier legislator-led insurance public policy organization, concluded a successful 2022 Spring National Meeting (Meeting) on March 6<sup>th</sup> in Las Vegas, NV. In what was the organization’s first of three scheduled National Meetings for 2022, there were 296 participants consisting of 52 legislators from 23 states, 16 first-time attendee legislators from 10 states, six Insurance Commissioners (or equivalent), and 11 insurance departments represented. These legislator participation numbers represent a new all-time high for an NCOIL Spring Meeting. NCOIL’s seven policy Committees all met and discussed various critical issues in insurance legislation.

"In my first meeting as President, much was done which laid the groundwork for what I expect will be another very successful year for NCOIL," said California Assemblyman Ken Cooley. "We continue to have strong turnouts for our National Meetings – especially the number of first-time legislators. Overall, this was the most highly attended NCOIL Spring Meeting since 2008. Now is a tremendous time to be involved with NCOIL and the organization is rightfully being recognized as a top-notch forum for legislators and interested parties to gather, discuss, and debate critical insurance issues."

NCOIL CEO, Commissioner Tom Considine said, "I continue to be thrilled with the number of first-time legislators attending our meetings. As an organization principally represented by legislators, term limits and legislators leaving office for different opportunities are things we must constantly contend with, so seeing new faces at our meetings is always great and a positive sign." Considine continued, "This Meeting was again extremely productive in terms of serving as an educational forum for legislators and interested parties and developing sound insurance public policy that legislators can take back to their states for review and introduction."

The Joint State-Federal Relations & International Insurance Issues Committee, chaired by Minnesota Senator Paul Utke, met on Friday morning and adopted two Resolutions, both sponsored by Asm. Cooley: Resolution in Support of the People and Government of Ukraine; and Resolution Supporting Independent Contractor Status for Insurance Agents and Other Licensed Financial Professions. The Committee also heard from Loren Adler, Associate Director at the USC-Brookings Schaeffer Initiative for Health Policy on the implementation of the new federal balance billing law – The No Surprises Act – and from Andrew Biggs, Ph.D., Senior Fellow at the American Enterprise Institute on the status and future of the social security system.



Rep. Tom Oliverson MD, TX  
Treasurer



Rep. Deborah Ferguson, DDS,  
AR  
Secretary



Rep. Matt Lehman, IN  
Immediate Past President



Sen. Jason Rapert, AR  
Immediate Past President

## NCOIL Concludes Successful Spring Meeting in Las Vegas, NV (cont'd)

The Workers' Compensation Insurance Committee, chaired by Ohio Senator Bob Hackett, followed and it heard presentations on "Workers' Compensation in the Post-COVID Era" from Matthew Zender, SVP, WC Strategy at Amtrust North America, and Monica Verduzco-Gutierrez, M.D., Professor and Chair of the Department of Rehabilitation Medicine at the University of Texas Health Science Center at San Antonio. The Committee also re-adopted the Model State Structured Settlement Protection Act until its next meeting in July during which amendments to the Model will be discussed and considered.

The Institutes Griffith Foundation also hosted a legislator luncheon during which Michael Leonard, Ph.D., CBE, Vice President & Senior Economist at the Insurance Information Institute and Adjunct Faculty at Columbia University and New York University, delivered a presentation titled "Inflation: Implications for Insurers and Public Policymakers."

A very productive NCOIL-NAIC Dialogue, chaired by Asm. Kevin Cahill (NY) – NCOIL Vice President – was then held which included an impressive lineup of NAIC representatives: Idaho Director and NAIC President Dean Cameron, Connecticut Commissioner and NAIC Vice President Andrew Mais, Arkansas Commissioner Alan McClain, Montana Commissioner Troy Downing, Oklahoma Commissioner Glen Mulready, and Utah Commissioner Jon Pike. The Dialogue included discussions of State adoption of the NAIC Credit for Reinsurance Models, the NAIC Special Committee on Race and Insurance, proposed changes to the NAIC Climate Risk Disclosure Survey, and enhanced cash surrender value endorsements and their interaction with the Standard Nonforfeiture Law.

The Dialogue was followed by a general session titled "The Search for a Successful Public Option." Panelists were: Liz Hagan, Director of Policy Solutions at United States of Care; Sally Pipes, President & CEO at the Pacific Research Institute; Adam Fox, Deputy Director at the Colorado Consumer Health Initiative; Amber Stidham, VP of Government Affairs at the Henderson Chamber of Commerce; and Nevada Senator Fabian Donate.

The day concluded with the Life Insurance & Financial Planning Committee meeting, chaired by Asw. Maggie Carlton (NV), which discussed development of a Paid Family Medical Leave Insurance Model Act, and life insurer perspectives on COVID-19 developments. The Committee also re-adopted the Secondary Addressee Model Act, and the Insurance Compliance Self-Privilege Model Act.

The following day began with a meeting of the Property & Casualty Insurance Committee, chaired by Kentucky Representative Bart Rowland. The Committee: heard a presentation from Arity on how telematics can turn mobility and driver data into meaningful behavioral insights; discussed the development of an NCOIL Delivery Network Company (DNC) Model Act; discussed the NCOIL Insurance Underwriting Transparency Model Act, sponsored by Rep. Matt Lehman (IN), NCOIL Immediate Past President; and continued discussions on state efforts to lower the uninsured motorist population. Lastly, Asm. Cahill announced his intent to sponsor and have the first draft of an NCOIL model act governing the use of dog breed information in insurance underwriting prepared for introduction at the Committee's next meeting in July.

Rep. Rowland said, "I'm proud to serve as Chair of this Committee during what is my last year in the legislature. I've really enjoyed working with everyone on important issues. As always, this Committee is very busy, and we have a lot of work to do by year's end. I'm confident we'll get there and end up with sound policy that can guide states in developing state law."

Another general session followed which focused on the interrelationship between climate change and insurance. Panelists were: Connecticut Commissioner Andrew Mais; Sean Kevlighan, CEO of the Insurance Information Institute; Stefan Holzberger, Senior Managing Director & Chief Rating Officer at AM Best; Rich Sorkin, Co-founder & CEO of Jupiter Intelligence; and Dr. Joanne Leovy, Nevada State Medical Association Delegate to the Medical Society Consortium on Climate and Health.

## Future NCOIL Meetings:

Summer 2022  
July 13—16  
Jersey City, NJ  
Hyatt Regency

Annual 2022  
November 16—19  
New Orleans, LA  
Sheraton New Orleans  
Hotel

Spring 2023  
March 9 –12  
San Diego, CA  
The Westin San Diego  
Gas Lamp Quarter

Summer 2023  
July 19 –23  
Minneapolis, MN  
Marriot Minneapolis  
City Center

Annual 2023  
November 15 –18  
Columbus, OH  
Renaissance Columbus  
Downtown Hotel

## NCOIL Concludes Successful Spring Meeting in Las Vegas, NV (cont'd)

Nevada Attorney General Aaron D. Ford delivered an uplifting Keynote Address at Saturday's luncheon. Attorney General Ford is the first African American to hold statewide constitutional office in Nevada. Before his election, Attorney General Ford served as the Majority Leader of the Nevada State Senate, and held a number of other Senate leadership positions.

The Financial Services & Multi-Lines Issues Committee then met and heard a presentation from Azish Filabi, Executive Director of the Maguire Center for Ethics and Associate Professor & Charles Lamont Post Chair of Business Ethics, and Sophia Duffy, Associate Professor of Business Planning, both from The American College of Financial Services, titled "AI-Enabled Underwriting Brings New Challenges for Insurance: Policy and Regulatory Considerations."

The Committee also decided to move forward with the development of an NCOIL Insurance Regulatory Sandbox Model Act, sponsored by Rep. Bart Rowland (KY), Rep. Wendi Thomas (PA), and Rep. Tom Oliverson, M.D. (TX) – NCOIL Treasurer. Further, the Committee heard a presentation on changes to certain laws to provide more flexibility in electronically delivering insurance documents, and announced its intent to likely submit a comment letter to S&P Global Ratings regarding its proposed changes to how it rates insurance companies.

The Health Insurance & Long-Term Care Issues Committee, chaired by New York Assemblywoman Pamela Hunter, met on Sunday morning and continued discussions on the 340B drug pricing program. The Committee heard from Hopewell Health Centers, Mountain Health Network, PhRMA, the National Association of Community Health Centers, and 340B Health. Asw. Hunter announced that the continued discussion of the 340B drug pricing program will be transferred to the Joint State-Federal Relations & International Insurance Issues Committee.

The Health Committee also heard from Steve Landers, M.D., MPH, President & CEO of the Visiting Nurse Association (VNA) Health Group, who discussed lessons learned from COVID-19 and preparing for the next pandemic, and from representatives from America's Health Insurance Plans (AHIP) who discussed the unfunded mandate of COVID-19 testing, and developments in value-based care. Further, the Committee re-adopted five model laws: Model Act Regarding Air Ambulance Insurance Claims; Out-of-Network Balance Billing Transparency Model Act; Patient Safety Model Act; Rental Network Contract Arrangements Model Act; and Model Act Banning Fee Schedules for Uncovered Dental Services.

Lastly, Asw. Hunter announced her intent to start the development of a model law governing health insurance coverage for biomarker testing for the purposes of diagnosing, treating, managing, or ongoing monitoring of a covered person's disease or condition. Asw. Hunter has introduced A09149 in New York which will serve as the starting point for the NCOIL model law.

Asw. Hunter said, "The Committee's meeting in Las Vegas was very productive and set the stage for what will be yet another busy year. I'm looking forward to working with everyone, particularly on my biomarker testing model law as it deals with such a critical consumer-protection centered issue."

The Meeting concluded with the Executive Committee's meeting which adopted all of the administration and policy Committee reports, and also adopted a Resolution in Honor of NCOIL Past President Representative George Keiser (ND) who passed away late last year after courageously battling ALS the past several years. The Resolution will be sent to Rep. Keiser's family along with comment letters in honor of Rep. Keiser and in support of the Resolution.

"Rep. Keiser, our friend and colleague George, helped all his NCOIL colleagues better grasp how small nuances of bill drafting could yield big outcomes. We will all miss him immensely," stated NCOIL President Asm. Ken Cooley.

"It is truly a great honor to serve as NCOIL President. The organization has steadily improved the past several years in terms of its national recognition, scope, and importance, and all signs point to another tremendous year," said Asm. Cooley. "I'm looking forward to meeting again in Jersey City in July where we can all share our perspectives from our legislatures and constituents, develop model laws, and preserve the proven state-based system of insurance regulation."

## Future NCOIL Meetings:

Spring 2024  
April 11-14  
Nashville, TN  
Sheraton Grand  
Nashville Downtown

Summer 2024  
Tentative  
Costa Mesa, CA  
Westin South Coast  
Plaza

Annual 2024  
November 20 - 23  
San Antonio, TX  
The Westin Riverwalk

# Capital



By Will Melofchik – NCOIL General Counsel



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 discussed at the recent NCOIL Spring Meeting and will be monitoring and further discussing throughout 2022.



### S&P's Proposed Changes to Insurer Rating Raises Concerns

Rating agencies serve an important role in the state-based system of insurance regulation as they assess and issue a rating of the financial strength of insurers to gauge the ability of insurers to pay claims, their bond and other debt, and service their customers. Each rating agency has its own rating scale, its own rating standards, and its own population of rated companies.

Rating agencies have been discussed at NCOIL throughout the past several years, most recently in 2017 when then organization adopted a [Model Act to Support State Regulation of Insurance by Requiring Competition Among Rating Agencies](#). That Model sought to address the concern raised by many regarding the designation of a single, exclusive insurer rating requirement in laws, statutes, bulletins or other public material by instead embracing insurer rating requirements in laws and regulations that incorporate the enumeration of multiple, competent insurer rating organizations.

S&P Global Ratings (S&P) has recently issued a request for comments on its proposal to revise its methodology for assessing insurers' financial strength: "Insurer Risk-Based Capital Adequacy--Methodology And Assumptions." The proposal has garnered national attention and has been criticized as anti-competitive and a method to steer insurance companies towards S&P's services. Generally, the proposal states that when examining the bonds held by insurance companies, S&P will lower ("notch") the rating of that insurer if the bonds were rated by anyone other than S&P. NCOIL CEO Commissioner Tom Considine has described the S&P proposal as one that would create a caste system among rating agencies.

NCOIL has been monitoring this issue and will be submitting a comment letter to S&P expressing concerns with the proposal that it directly contravenes the competitive spirit of NCOIL's rating agency model law. It is also worth noting that the deadline to submit comment letters to S&P has been extended numerous times, seemingly due to the controversy generated by the proposal. A [federal hearing](#) on the proposal is also likely to be scheduled in the near future.

At NCOIL's recent Spring National Meeting, the issue was briefly raised during the NCOIL-NAIC Dialogue and the Financial Services & Multi-Lines Issues Committee (the Committee of jurisdiction over NCOIL's rating agency model). The NAIC is well aware of the proposal and has submitted letters to the Chairs and Ranking Members of the [U.S. House Committee on Financial Services](#) and the [U.S. Senate Committee on Banking, Housing and Urban Affairs](#).

At the upcoming NCOIL Summer National Meeting in July in New Jersey, this issue will be further discussed. It is also likely that NCOIL will discuss the proposal during an interim Zoom meeting of one of its policy committees in June. Please submit any thoughts or comments on this issue to [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org)

## Capital Corner (Cont'd)

### Insurance Underwriting Transparency and Use of External Consumer Data Continue to be Priority for Legislators and Regulators

The issues of insurance underwriting transparency and insurers' use of external consumer data have been increasingly discussed across the country throughout the past several months. Bills and regulations calling for greater transparency, among other things, were introduced in states including but not limited to [Indiana](#), [Oklahoma](#), [Rhode Island](#), and [Washington](#). And last July in Colorado, [SB 169](#) was signed into law. Pursuant to SB 169, the Insurance Commissioner must work with stakeholders before adopting regulations – that process is [currently underway](#).

NCOIL has also been heavily involved with these issues. As you likely know, NCOIL formed a Special Committee on Race in Insurance Underwriting towards the end of 2020. At the Committee's final meeting in July of last year, the Committee, in meeting its charges and therefore sunseting, adopted a series of resolutions, two of which referred certain issues to NCOIL standing policy committees.

One of the resolutions was titled "Resolution Regarding Insurance Score Transparency" and it referred the issue of developing an Insurance Score Transparency Model Law to the Property & Casualty Insurance Committee. The issue has moved away from the "insurance score" aspect and will now instead focus a bit more broadly on transparency in the underwriting process in general.

Rep. Matt Lehman (IN), NCOIL Immediate Past President, introduced the Indiana bill cited above and that bill now serves as the starting point for the [NCOIL Insurance Underwriting Transparency Model Act](#). The Model is short and straightforward in that it requires the insurer to provide certain information to the consumer regarding what information was used to underwrite the consumer. Specifically, upon request from the consumer, the insurer must disclose all primary factors, up to a maximum of ten (10), of those most heavily weighed, that the insurer uses in calculating a premium.

Also, regardless of whether the consumer requests anything, when an insurer takes an adverse action based on external consumer data, the insurer must provide notice to the consumer explaining the reason for the adverse action – and the notice must: include sufficiently clear and specific language so the consumer is able to identify the basis for the insurer's decision to take an adverse action; and all factors, up to a maximum of ten (10), that were the primary influences on the adverse action.

While straightforward on its face, there are of course many issues to resolve before the Model is presented for final consideration. At NCOIL's recent Spring National Meeting, the Property & Casualty Insurance Committee heard from Frank O'Brien, VP of State Gov't Relations at the American Property & Casualty Insurance Association (APCIA), Karen Melchert, Regional VP of State Relations at the American Council of Life Insurers (ACLI), and Andrew Kirkner, Assoc. VP of State Affairs at the National Association of Mutual Insurance Companies (NAMIC), who, while applauding NCOIL for taking on this issue and recognizing the timeliness of the discussion, raised important issues that must be thoroughly discussed and thought out before further proceeding: from an operational level for the insurer, how will this be conducted?; what are "primary factors"?; what lines of insurance does this apply to? and how can this be done in a way that protects proprietary and confidential information?

The conversation in Las Vegas was a good start and the Committee will further discuss the Model and the issues raised in New Jersey in July. Please submit any thoughts or comments on this issue to [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org).

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<sup>1</sup> The current deadline to submit comments is April 29, 2022.

<sup>2</sup> Rep. Lehman has since withdrawn that Indiana bill with the goal of introducing the NCOIL Model in Indiana, if adopted.

## Capital Corner (Cont'd)

### From TNCs to DNCs: NCOIL Emerges Again as Leader on Gig Economy Insurance Issues

As you may know, in 2015 NCOIL adopted a Model Act to Regulate Insurance Requirements for Transportation Network Companies and Transportation Network Drivers – commonly referred to as the TNC Model. The Model has been one of NCOIL's most successful with it serving as the basis for almost every state's TNC law. During the last couple of years, delivery network companies, commonly referred to as DNC's, have grown in popularity.

Recently, there have been conversations, and in some instances, [bills introduced](#), focusing on the need to develop a framework setting forth insurance requirements for DNC's – much like NCOIL did with the TNC model. This is because the TNC model and the state laws based on the model only address transportation of people for hire, not delivery of goods. It's fair to say that most would agree that insurance protection is essential for DNCs, but the same level of coverage is not required for a sandwich as there is for a family.

At NCOIL's recent Spring National Meeting, the Property & Casualty Insurance Committee heard from Marty Young, CEO and Co-founder of Buckle, Joe Messina, Legal Director of Insurance Law & Regulation at Uber, Frank O'Brien at APCIA, Andrew Kirkner, NAMIC, Brad Nail on behalf of Lyft, and Jordan Bailey, Legislative Policy Advisor at DoorDash, who each provided their perspectives on this issue.

The good news is that everyone agrees that using the existing TNC model as a starting point for a DNC model makes sense, and everyone is aligned on the important of ensuring that coverage gaps do not exist and that coverage amounts should be appropriate for the type of risk being assumed. Of course, how those coverage gaps are closed, and what those specific coverage amounts are will be topics for vigorous discussion at future meetings.

The Committee will be further discussing this issue in July with the goal of adopting a Model at the NCOIL Annual Meeting in November in New Orleans. Please submit any thoughts or comments on this issue to [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org).

We hope to see you in New Jersey, and hear from you in the interim.

*-will*

<sup>3</sup> The term DNC refers to companies that allow people to use their personal vehicles in conjunction with a digital network to deliver food or beverages – companies such as DoorDash, Grubhub or Drizly.



**SPRING MEETING MINUTES**

**CLICK HERE FOR MORE INFO**

## NCOIL Adopts Resolution in Support of the People and Government of Ukraine

Manasquan, NJ – NCOIL adopted unanimously a Resolution sponsored by CA Asm. Ken Cooley, NCOIL President, In Support of the People and Government of Ukraine during the 2022 NCOIL Spring Meeting.

“As an organization of America’s 50 state legislatures, NCOIL would have done our states a disservice if our four days of policy discussions (in the exercise of our American freedom to promote good policy), failed to note the grave jeopardy which Ukrainian freedom now faces. That did not happen, however, as our Local, State and International Committee, under Paul Utke and Brenda Carter’s leadership, passed a strong resolution in support of the people of Ukraine. That action, approved unanimously by the Executive Committee, put NCOIL on record urging Members of Congress to condemn the attack and stand with the United States and its allies, President Joseph Biden, the people of Ukraine, and Ukrainian President Volodymyr Zelenskyy in opposition to this war.”

The Resolution notes that thousands of individual Russians have protested against this war by signing an online petition, protesting in the streets, and speaking out in defiance of their government, and that over 1,000,000 Ukrainians and Americans of Ukrainian descent call the United States of America home.

“Ukraine is a democratic, productive, and peaceful country,” said Asm. Kevin Cahill (NY), NCOIL Vice President. “I am proud to have led the prayer for the people of this war-torn nation at our most recent meeting of NCOIL. It was an important expression that we are clear about our unequivocal support of the Ukrainian people and its government and likewise, that we condemn the unjustifiable attacks by the Russian government. Now is the time for everyone to do their part in support of the Ukrainian people and their leaders during this time of crisis.”

“I applaud our member legislators for adopting this Resolution unanimously” said Commissioner Tom Considine, NCOIL CEO. “I hope and pray that it serves as the beginning of a lasting peace being achieved.”

A full copy of the Resolution can be viewed [here](#)

**Reminder that Contributing States are eligible for two legislator stipends per National Meeting to help underwrite the cost of participating. Click below for more information**

**Please call the NCOIL office at 732-201-4133 with any questions.**

**LEGISLATOR STIPENDS NOW AVAILABLE FOR CONTRIBUTING STATES**

**CLICK HERE FOR MORE INFORMATION**

## Institutes Griffith Foundation Interview with Assemblyman Ken Cooley, NCOIL President

Click [Here](#) to view the recent Institutes Griffith Foundation interview with California Assemblyman Ken Cooley, NCOIL President sharing his perspective on what lies ahead in 2022.



## NCOIL One on One

NCOIL One on One Interview with MN Senator Paul Utke is out now, click on the link [here](#) to check it out!

If you haven't had a chance to watch previous interviews with IN Representative Matt Lehman, NY Assemblywoman Pam Hunter, OH Sen. Bob Hackett, AR Rep. Deborah Ferguson, DDS, ND Sen. Jerry Klein, LA Rep. Edmond Jordan, CA Asm. Ken Cooley, TX Rep. Tom Oliverson, MD, and NV Asw. Maggie Carlton please visit our YouTube channel [here](#).

Thank you to everyone who has participated so far!



## Don't Miss the NCOIL YouTube Channel: Subscribe Today

Audio from the NCOIL 2022 Spring Meeting Committee Sessions are out now, click [here](#) to view on the NCOIL YouTube Channel.

Weren't able to attend our past meetings? Good news— you can visit our YouTube channel for recordings of past meetings. Prior national meeting sessions and interim committee meetings are posted on our YouTube channel now.

Visit the link below to subscribe and keep up to date on all things NCOIL!

<https://www.youtube.com/channel/UCe09Z77z4q6HG1kv3fDG7Bg>