

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
NCOIL – NAIC DIALOGUE COMMITTEE
NEW ORLEANS, LOUISIANA
NOVEMBER 18, 2022
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue Committee met at The Sheraton New Orleans Hotel on Friday, November 18, 2022 at 10:45 a.m.

Assemblyman Kevin Cahill of New York, Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Jason Rapert (AR)	Sen. Paul Utke (MN)
Asm. Ken Cooley (CA)	Sen. Jerry Klein (ND)
Rep. Tammy Nuccio (CT)	Sen. Shawn Vedaas (ND)
Rep. Rod Furniss (ID)	Sen. Bob Hackett (OH)
Rep. Matt Lehman (IN)	Rep. Brian Lampton (OH)
Rep. Brenda Carter (MI)	Del. Steve Westfall (WV)

Other legislators present were:

Rep. James Kaufman (AK)	Asm. Jarett Gandolfo (NY)
Rep. Deborah Ferguson, DDS (AR)	Asw. Pam Hunter (NY)
Rep. Kerry Wood (CT)	Sen. Jay Hottinger (OH)
Rep. Carolyn Hugley (GA)	Rep. Carl Anderson (SC)
Rep. Brian Lohse (IA)	Rep. Jim Dunnigan (UT)
Rep. Jonathan Carroll (IL)	Sen. Mike Azinger (WV)
Rep. Michael Sarge Pollock (KY)	Sen. Eric Nelson (WV)
Sen. Robert Mills (LA)	
Sen. Lana Theis (MI)	
Sen. Paul Wieland (MO)	
Sen. Kevin Blackwell (MS)	
Sen. Mike McLendon (MS)	
Sen. Walter Michel (MS)	
Sen. Joseph Thomas (MS)	

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel
Pat Gilbert, Manager, Administration & Member Services, NCOIL Support Services, LLC

QUORUM

Upon a Motion made by Rep. Matt Lehman (IN), NCOIL Immediate Past President and seconded by Sen. Paul Utke (MN), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Asm. Ken Cooley (CA), NCOIL President, and seconded by Sen. Jerry Klein (ND), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 15, 2022 meeting in Jersey City, NJ.

INTRODUCTORY REMARKS

Asm. Cahill stated that before we get started I just want to point out that this is probably in my experience here which is now nine years the largest attendance that we've seen at NCOIL and the largest attendance of insurance commissioners that we've seen at NCOIL. So thank you very much for making this such a successful meeting. And the other thing that's important to note is the difference between now and years past - we actually get along now. And that's really a nice thing too. It's a much more productive relationship when we're on the same side then it is when we're arguing. Before we get started I'm going to ask each insurance commissioner to please introduce yourself.

The Hon. Glen Mulready, Oklahoma Insurance Commissioner, thanked Asm. Cahill and stated that I would just echo your comments as I sat in those seats over there for quite a few years and in my dozen years of involvement with both organizations I don't think our relationship has been better so kudos to you and we look forward to more. The Hon. John King, Georgia Insurance Commissioner thanked the Committee for the opportunity to speak. The Hon. Jim Donelon, Louisiana Insurance Commission, stated that he also previously served in the legislature and he appreciates the opportunity to speak today. The Hon. Troy Downing, Montana Insurance Commissioner, stated that these meetings have been very productive and he appreciates the opportunity to speak today. The Hon. Jon Pike, Utah Insurance Commissioner stated that this is the second time I've been to one of your conferences and I appreciate the collegiality and the collaboration. The Hon. Lori Wing-Heier, Alaska Insurance Commissioner, thanked the Committee for the opportunity to speak today. The Hon. Chlora Lindley-Myers, Missouri Insurance Commissioner, thanked the Committee for the opportunity to speak and noted that she is also the incoming President of the NAIC and it's great to be here.

UPDATE ON WORK OF NAIC INNOVATION CYBERSECURITY AND TECHNOLOGY (H) COMMITTEE

Asm. Cahill stated that the NAIC's H Committee is a new committee and that's not something you typically do. You are a very conservative group and you move very deliberately. When you form a new committee it means something. So you can give us a little bit of an update and particularly we would like to hear a little bit about algorithmic bias and how insurers can manage and mitigate risk of unintended bias and illegal discrimination when developing and using artificial intelligence and machine language.

Cmsr. Downing stated that obviously this is something that was given a lot of thought and consideration in the need for creating a new letter committee which was a big deal within the NAIC but we saw that need as we see obviously insurers are increasingly using technology and big data and artificial intelligence and machine learning. And that affects us as regulators and it's really clear that as regulators we are never going to keep up with innovation and industry but we need to be thoughtful about this and have good conversations and understand what is happening and what's coming around the corner to the extent that it falls under our umbrellas as regulators to ensure all the things that we do are followed. Solvency is important as is making sure that we're protecting against unfair discrimination - all these things that come up in this brave new world. And that has been interesting too. I'm going to just talk a little bit about what we're seeing in Montana as we get a lot of pressure from folks looking at doing these regulatory sandboxes so

that they can get some form of regulatory relief to try something innovative. And innovation is important and it's coming. We want to make sure that we're open to innovation but make sure that it fits squarely into what we care about as regulators and I've had a number of conversations with the folks in industry and otherwise wanting these regulatory sandboxes and you get a lot of innovators that are not insurance professionals which is an interesting quandary. And one of the messages that we've been saying to these folks coming to us in Montana is yes we're open for innovation. We want to foster innovation. But what do I care about? I care about solvency. So, are you doing something that requires some kind of relief in what would make us uncomfortable as regulators in terms of solvency.

And then the other thing is unfair discrimination. Obviously insurance is by nature discriminatory but we need to look at what is unfair and what's illegal discrimination. And a lot of times when presented with that, we haven't really heard of any product that needed that space and I know there's some other states that have these sandboxes but we had somebody come up that wanted some relief in the workers compensation market basically to try some product but got around some prohibitions on rebates because they wanted to be able to help get injured workers back to work more quickly. And we've had some interesting stuff there. But I'm digressing a little bit on what we're saying here. In terms of the H Committee, this is something that touches almost everything that we do and so we're trying to be collaborative and as you had mentioned earlier about these collaboration forums, we just had one this summer to bring in folks from all the different committees to help understand industry and understand everything on collaborating and what we need to do as regulators in terms of protecting against unfair discrimination. And in other words if we have bias in algorithms, how do we deal with that? And it's been an interesting conversation as we try to explore what that means. Is an algorithm biased or not? And how do you understand when you're using a black box if you're getting results that you don't like. And a big thing that's come up in some of these conversations is what do you need to do in terms of the data going in that's being used in these artificial intelligence algorithms. Is there bias in the data going in? Is there bias in the data coming out? Or is it giving us something that we need to make a public policy decision on independent of that? And so there's a lot of conversations on whether we need to do data calls from insurers and whether they can figure this out on their own on whether non-correlated pieces of data are meaningful when you can't find causality but you can find correlation. And there's a lot of big concepts and conversations that are going on here. And I will say because I sit on the H committee that a lot of thoughts from a lot of different perspectives are going into this and understanding where we can come to a consensus and what that's actually going to mean. And I'm going to hand this off to Cmsr. King because he had some comments on this as well but I just want to say that this has been a really interesting project and it's going to continue in its importance in the insurance industry and what that means when you start seeing more and more artificial intelligence, big data, machine learning, and all these giant databases that we're all creating even just sitting here with our phones pinging our location data and everything else. And we all need to understand what we need to do with regulators and the things that we care about and like I said one of the big things that we're looking at here is whether there is illegal or unfair discrimination in some of these projects.

Cmsr. King stated that we come at this from a number of perspectives and I come from obviously public safety and from the military background so I look at a lot of this from how do we secure the data because this issue is affecting all industries. It's not exclusive to insurance and so we're being very methodical and very disciplined about not rushing to failure. And what I'm really glad that this committee's doing is basically getting a common understanding of just agreeing on the terms of reference as we start absorbing and going after problems. We have a number of Commissioners who have different perspectives and we listen very carefully to our legislators. We listen very carefully to our consumers that we are sworn to protect and we're being very

deliberate and we are taking input from the industry with advocates. And so we're starting our education because we come from different backgrounds and we bring different lenses to this committee and I'm really glad that we have an incredible level of diversity that we really are being very disciplined and not rushing to start putting regulations out into the industry without truly understand the problem that we're solving. So I'm very glad to be part of it and obviously I come from the security and from the military perspective so that is the lens that I approach this very important topic and I think it's not only in insurance but it's affecting every industry throughout the U.S.

Asm. Cahill stated that in an earlier discussion between us before this meeting we were talking about entities asking questions for which the answers don't exist related to something else but that's one of the hazards when we're talking about artificial intelligence and machine learning as we think we can fill the gaps but doesn't that increase the opportunity for what in accounting would be called the carryover error that if you make a mistake here it can balloon into something massive at the end? And isn't it also possible that we're not asking the right questions? Is something being considered along those lines to put guard rails up around those issues? Cmsr. King stated that we are considering those and those exact comments are being vetted in the committee's discussions. The way that some of us look at machine learning is increasing the speed and the analysis but it ultimately is going to have to be human beings applying their own common sense. But the machine learning and a lot of this technology is to increase the amount of speed but also the breadth of information being brought at assigning of risk. Cmsr. Downing stated that there's so many important questions to be asked there and like I mentioned earlier one of the big questions is correlation enough or do you need causation? And understanding really how the data comes together and whether we need to have explanations of that or not. I mean these are the conversations that are being had right now because some of that's not really clear and there's a lot of stuff that we deal with on a daily basis that is completely based on correlation and not causation. So they're interesting questions that we ask here as we try to figure that out. And what does that mean to have transparency into these black boxes? What are we looking at? Do we need the connections of these data pieces and how that comes to that final result? How do they interact? And in the modern era I don't know if a lot of people are aware of this but predictive analysis on just basic human behavior is so good. I was talking to somebody at Google a decade ago on their predictive search analysis where they with 97% accuracy knew what you were going to ask for before you typed in a letter. And it scared people so they detuned it. We're getting better and better as we generate more and more data and what does that mean to us as regulators? These are the conversations we're having. I'm not offering any answers here. I'm just saying that these are big interesting problems of understanding really what that means and then in my personal opinion I'm not talking for NAIC or anybody else, if you have a big enough and broad enough data set that gives you an answer and it's not an answer that you want because you think it's affecting somebody that you want to protect then that becomes a public policy decision. And we start dealing with not assuming that the algorithm was intrinsically wrong, intrinsically biased, intrinsically bad but that was a result and then you decide what the public policy decision is on those results and then we act accordingly on those results. I'm not saying that the whole idea of artificial intelligence or machine learning is wrong. Sometimes it's very right. We just don't like the answers and I think there are valid public policy decisions to be made on that.

Asm. Cahill asked what is the risk of becoming overly confident in these types of things? Cmsr. Downing stated that I think that's always a risk and I think we need to be diligent on understanding what these results are and have ways of vetting. And one of the things that I mentioned is having very rich, very broad data sets to see what results you're getting to see how we understand what is happening there and what's not and I think that as we start to see those

results it's going to foster a lot more questions and we're going to continue discussing that and start trying to understand what's happening there.

Dir. Wing-Heier stated that I agree with what they're saying. This is a new area for us. This is something that we delving into putting our toe into and trying to find results or a path forward. What I would ask of legislators as a whole is when you're working with your department or your divisions of insurance going forward, when you see a request for a behavioral scientist or data analytics expert - these requests are real. We need someone to help us. Our departments don't have these experts on staff and maybe the California's and the bigger ones are recruiting now but the smaller ones, this is all new for us. And so we are looking for the expertise to help us through this and so when you see these requests please talk to your departments. We're not going to get out of this or through this to understand this without some help internally on our staffs.

Asm. Cahill stated that I think that's a very important point that the race has already started and you're not quite at the gate yet with the tools that you need so it's important. Cmsr. Donelon stated that at a previous NCOIL meeting several years back the issue of big data being used to increase rates for some of identical risk, called price optimization, was discussed and it was a very accurate predictor of who would shop with a rate increase versus who would be asleep at the switch or maybe not notice the increase. And I for one and I think most other regulators said no to that on a policy basis. Not on an accuracy or an anti-marketing basis. Just on a public policy basis. And we had a robust discussion. Asm. Cahill stated that I think Cmsr. Downing made that point that at some point in the discussion it becomes policy. It changes over from information or even massaging information to making a decision about what you do with the information.

DISCUSSION ON THE IMPACT OF WILDFIRE RISK ON THE INSURANCE MARKET

Asm. Cahill stated that he would like to turn this topic over to NCOIL President, Asm. Ken Cooley (CA). Asm. Cooley stated that we see this through the lens of California where we have so many forests and we have an ongoing drought and the scale of fires have just been sweeping through the state and becoming much more urban. A lot of places are getting caught up in that. And so it becomes a matter of how is the risk being managed - the fire risk affecting these communities? And then you get the carriers concerned about their exposure to fire and it starts becoming an issue of the cost of their homeowners insurance, primarily people concerned about the impact of that on rating. CA Cmsr. Ricardo Lara is struggling with how to deal with that. Having just come off the campaign trail I hear from lots of people concerned about the cost of their homeowners insurance and it is a significant struggle to just figure out how to deal with it within our rating system. Of course California is not a file and use state, it's as a prior approval State and so the conundrum of how to set rates when there is a significant fire risk that you can't identify geographically and maintain affordability is a great challenge for folks. So what do you see happening at the NAIC on that broad topic?

Dir. Wing-Heier stated that the NAIC is looking at not just wildfires but other catastrophic risks that are putting a strain on reinsurers and the primary insurer and the ability to pay the claim. Wildfires are certainly at the top of the list but so are hurricanes. And the storms that are going to the Midwest that are the tornadoes and such are having catastrophic claims from the east coast to the west. And so the NAIC Center for Insurance Policy and Research (CIPR) has developed a modeling center of excellence which is going to help regulators become more efficient in dealing with the filings we're getting. And looking at the solvency of insurers with respect to these catastrophic risks, the conflagration is a big piece of that and again we're putting

our program together so that we all have the tools and our staff has the tools to look at what these claims are doing and the impact they're having on the industry throughout the whole nation because you could have the fire in California but that doesn't mean that we're not going to feel it in Alaska. It will get to us. And on the other hand we don't have the property laws California do. We could burn twice the number of acres but we don't have the property so we don't get the attention because the claims aren't paid. There are no claims. So in looking at that, we're trying to come up with the tools to look at the hurricanes and the storms to see what we can do to look at the solvency and then how are they handling the claims? When are the claims being paid? Are there resources on the ground for consumers? And also what we're calling the hardening. Can we communicate to consumers with effective tools and resources of what they can do to harden their home so that the loss isn't quite so severe if there is a loss at all? This could include anything from is it worth as a return on your investment to put on a metal roof and clearing trees and things like that.

Cmsr. Pike stated that there are some pretty stunning things to see here in terms of the amount of damage that can occur. A fire in California can have consequences across the entire U.S. in terms of air quality and so forth. During our summer meeting in Portland, OR we had the Climate Risk and Resiliency Task Force convene a panel on wildfire mitigation and a wide array of perspectives were heard and we heard about several different mitigation efforts. One is called wildfire prepared home. It allows homeowners to apply for and achieve a designation if they can show that they have taken certain steps and measures to qualify them for a meaningful reduction for them in their homeowners insurance. Some of these relate to what type of roof you install, installing certain types of vents and using fire resistant materials for decks, windows, doors, and clearing away combustible materials. And there's varying levels of that obviously from 5 ft to 30 ft to 100 ft from the structure. But there is a lot of data being formed there and there's lots of mapping being done and that could be good or bad in my state. Rep. Jim Dunnigan (UT) knows that we've heard from a few insurance agents who have said they're concerned that there will be both on the reinsurance side and on the insurance side either a reduction in the products offered or a higher premium that people will be priced out of the market. And Rep. Dunnigan and I met with our property-casualty advisory committee and it was interesting to have different representatives there from companies such as Allstate and others. And some people are saying "well it's not a problem yet" but then we heard from one agent who said "it's a problem with this company who may not write in these areas because of wildfire mapping that's now kind of started." So it's going to be interesting and I think we're going to have to make sure that as we have these opportunities there's a program in Boulder, CO we'll talk about this afternoon in the wildfire session where again one of the keys is that if you're going to attain some certification and therefore be able to purchase appropriate coverage it can't just be you, it's got to be your community that's taking appropriate measures. And that gets tricky. So it'll be interesting to see where that goes but I think what the NAIC is trying to do is identify the risks and identify the different mitigation possibilities and work with states as best we can. And as it relates to solvency risks, wildfires have been now identified as one of the major drivers of U.S. insurance company losses. I'm sure you all are aware of that. Last year our solvency workstream of the climate resilience task force recommended that a wildfire peril be added to the risk-based capital framework for catastrophic risk exposures and that recommendation was formally adopted by the capital adequacy (E) task force earlier this year. So we'll be requiring companies to annually report their modeled wildfire risk for informational purposes only. This will help to ensure that companies are adequately reserving the capital necessary to maintain their financial conditions when wildfires do occur. And after collecting that data for a period of time and measuring against benchmarks the NAIC will consider an appropriate capital charge to be applied.

Rep. Lehman stated that I want to touch on something Cmsr. Pike said and that was you start talking about the reinsurance market and I know I'm hearing from multiple reinsurers that had a meeting at the end of the last quarter what's referred to as the mid term increases and then also capacity issues which obviously then flows down to the carriers. You look at carriers ending their third-quarter with crazy numbers and unless you have a fantastic fourth quarter they're going to be going in the next year with a rate increase on the horizon – potentially a big rate increase. I'm from a state that doesn't have wildfires. I'm from a state that doesn't have flooding from hurricanes. But we feel the pain of what happens on the coasts. My colleagues in Florida have always said we're paying for the weight of ice and snow and we have no exposure of weight of ice and snow. But I would venture a guess that the payments out for weight of ice and snow pale to what's paid out for fire and wind and flood. So are we going to see any sort of division and will there be any push back on how do I get around me paying for these expanding and growing claims in the places that have zero effect on me? And we're seeing among carriers. This is the first I've seen this - one of my clients bought a house in Montana and I said this company writes in Montana so I submitted and they said no it doesn't score well on the wildfire class rating and we don't have any homes in Indiana that are on a wildfire class rating. So it was interesting to me this is all now being developed. But do you see a path ever that this is going to become somewhat a division issue when some of us have these rates go up so high?

Cmsr. Donelson stated that being from the state of the worst hurricane vulnerability in America, I hear this question an awful lot and I'm able to explain to my folks in non-hurricane prone areas that they do not pay to subsidize for those who live in coastal Louisiana. For example, catastrophe coverage on the coast is 40% on average of the premium cost for policyholders there and 20% in the northern reaches of our state although they get hurricane damage often times as hurricanes make landfall on the coast and move through our state. In fact in Ohio at least as of two or three years ago, the all time insured loss event for Ohio was a hurricane that went through our state and it went through to the Northeast and out to the ocean. So, I don't think that is a factor. There are those however who are advocating now for nationwide the pricing of property & casualty products and spreading the risk on that basis. I'm not there. I think that would undermine the most valuable part of what we all do and that is to set policy and regulate insurance at the state level and if we go down that nationwide pricing system that will certainly lead to greater and probably total federal takeover of the insurance regulatory world.

Asm. Cooley stated that this wildfire risk is something where there's a lot of tools in the toolkit. Cmsr. Lara is requiring carriers to present rating approaches that acknowledges people are hardening their houses. But there are a lot of public elements. This last year I got \$20 million dollars to improve Northern California firefighter training coordination with rural fire departments to kind of strengthen the firefighting response. I got \$8 million dollars for a new fire house in Western Amador County which is very close to suburban Sacramento County and is a large community that's kind of out in the rural part of the county basically to improve firefighting in an area where there's a known fire risk. Obviously Cmsr. Lara is looking at this hardening of properties. We're working with our utilities to prune around their power lines that thread their way across the state because that's been a source of ignition. So, I do think we're going to end up using every tool in the tool kit and analyze to try to understand where is some element of risk that we can move on aggressively? Whether it's the insurance pricing mechanism or hardening of homes that has started. In Florida with some of the Hurricanes we started hardening homes and changing the way we vent things and so we're trying to do that in the wildfire space as well. It seems like this is one of those big issues that'll take us awhile to work through the system. I carry around on my keychain three words that my staff had inscribed there because they're certain challenges I've had to take on where these words are very relevant. It's relevant to this conversation as well. All good things in life have to work through three words: impossible,

improbable, inevitable. I think in this wildfire space we end up dealing with what seems almost an insurmountable challenge and you just need to try to put all the different pieces together as best we can and try to bend the curve through industry and human effort and creativity.

DISCUSSION ON DEVELOPMENT OF NEW NAIC DATA PRIVACY MODEL LAW

Dir. Lindley-Myers stated that we've been researching privacy issues and engaging with not only consumers and their representatives but also the industry and other regulators and this is definitely a priority for the NAIC. We have had this on our radar. We already have model laws on this and so we're re-looking at the models that are out there. Some of the things that were discussed are: the industry's need for a uniform approach to privacy across all jurisdictions; privacy rules that apply to technology; and standards that may not be appropriate for insurers. And so we're looking at that. Existing NAIC privacy models were adopted decades ago and while they serve the industry fairly well there are new things and new technologies that are out in the marketplace that we need to address when we look at privacy. I certainly wear a Fitbit and some wear an Apple Watch which looks at your health and a lot of times that information may be passed on. I may want that information passed on but others may not and so we're looking at all of those issues. The existing NAIC privacy models, probably the last time we looked at them was about five years ago. And the new privacy standards, we want to make sure that they exist and they don't impede the ability of the companies to compete in the financial services industry and that existing companies understand what the new nuances are and that they are able to provide that. The fact that there are data sets and algorithms that are out there and complex models that are out there are things that we need to look at. So the privacy protection working group is drafting a new NAIC model act to replace the two existing models which is the insurance information and privacy protection model act which is model #670 and then the privacy of consumer financial and health information regulation which is model #672.

Some of the more important issues which we'll be addressing in some manner is the consumer's ability to request data especially if there's a third-party who's collecting information on behalf of the insurer. We don't want the insured or the consumer to have to barter frankly to get that information back. To figure out what is going on we want to make sure that the information that is out there for the consumer is portable and it has a portability such that telematics data from one insurer to the next is taken into account. I'm with insurance company A this year but maybe next year I change to somebody else. I don't want some of the things that I built up under insurance company A to be lost when I go to C or D. And so those are the things that we're looking at. The next step for the privacy protection working group is to develop a draft. The hope is to have a draft and circulate the draft at the beginning of 2023. We're hoping to look at that at the Tampa meeting next month. We are also welcoming always the input of NCOIL members regarding this issue. Some of the things that you're hearing maybe we don't hear. We have always been served well by Sen. Paul Wieland (MO) who is here today and he has worked with us through the insurance committees in Missouri. And so in particular, we want to get an overview of what is out there and understand how we are able to capture the information that people are wanting to be captured and disseminated and then understand those that don't want certain information to be captured and disseminate how we can control that.

Asm. Cahill stated that one of the issues you mentioned Dir. Lindley-Myers is that this may be an area of uniform regulation. Dir. Lindley-Myers stated that we're hoping. Asm. Cahill stated that let's throw a couple of other words out there - uniform, national, federal. Dir. Lindley-Myers stated that well if you're asking uniform, national, and then what? I would say that the thought is that it is always compatible with a consumer. Whether I live in Missouri or I move to California or Montana it is still my information and the sharing of that information I want to have some control

over that. And I want the legislatures of all of those different jurisdictions and venues to protect my information in those places. Asm. Cahill asked if you are looking at some of the models from other countries? The European model is a lot stronger than anything we've ever thought of doing in this country. Dir. Lindley-Myers stated that we are looking at those things but when you get to the U.S. it is truly a sense of freedom and I want that sense of freedom and not the structure in the rigidity of perhaps some of the European models. But those things are still being looked at.

DISCUSSION ON PROPOSED AMENDMENTS TO NAIC LIFE INSURANCE ILLUSTRATION MODEL REGULATION

Cmsr. Donelon stated that I have been asked to give a brief report on where we are with this at the NAIC. In fact I've been a member of the A committee since the second year I was commissioner many years back and Dir. Judith French of Ohio, Chair of the A committee, conducted a call of the A committee on this subject this week. And to give you a brief update, generally life insurance illustrations provide an overview of the benefits entitled to a policyholder, the premiums required to maintain that benefit, the expenses related to the policy issue and maintenance and the benefit and premium periods. But there are challenges when it comes to developing illustrations of indexed universal life (IUL) products. The value of an IUL product can change in relation to the performance of an associated index such as the S&P 500 whose future values are uncertain. The NAIC IUL illustration subgroup is looking at both a short-term and long-term solution to this issue. As a short-term solution the NAIC is discussing revisions to actuarial guideline 49A titled "the application of a life illustrations model regulation to policies with indexed based interest to policies sold on or after December 14th 2020." The subgroup has received several comment letters from interested parties and is discussing the merits and drawbacks of those recommendations. Potential long-term solutions are being discussed and would like to address future product designs without having to actually update the actuarial guidelines every time. One idea is to open the NAIC life insurance illustrations model regulation, model 582, for limited and targeted revisions. These are likely aspects of model 582 that do not fully capture the complexity of IUL product design but potential remedies may lead to over-complication of the illustrations. The subgroup is trying to strike a balance. For next steps, at our next meeting in Tampa next month the subgroup will receive comments from stakeholders on a potential direction for a long-term solution whether it involves revising model 582 or some other alternative. This subgroup will also discuss short-term and long-term options at the life actuarial A taskforce session in our coming national meeting in Tampa.

Asm. Cahill asked if there is an idea when there may be some possible adoption of any changes? Cmsr Donelon replied no and stated that I don't think Dir. French does yet either.

DISCUSSION ON ADOPTION OF NAIC PET INSURANCE MODEL LAW

Cmsr. Downing stated that after four long years of work the NAIC adopted the pet insurance model act, number 633. The purpose of this was to establish an appropriate regulatory framework to pet insurance that can be adopted in the states and I will say that Montana's legislature is bringing this in our next session starting in January. With this model we are removing pet insurance as a limited line and basically creating this as a full property & casualty line and the reasoning this went through NAIC was there's a lot of growth in the pet insurance market and we found that premiums were far exceeding the costs and that these policies were overly complex. The model addresses some consumer protection issues relating to renewals, required disclosures of waiting periods, policy limitations and conditions, and benefit schedules. And there are also robust disclosures that allow consumers to affirmatively choose a policy that

is best for them and in a world with dozens of available options. Another one of the points in the model is a free-look period. The Model allows a maximum of a 15 day free look period after which the consumer can examine the policy and request a refund if no claims were made. There's some language about pre-existing conditions and this limits how the insurers can deny a pet insurance claim related to pre-existing conditions of covered pets and it puts the onus on the insurer to prove the pre-existing condition limitation applies. There's some interesting parts about wellness programs and you can't have a wellness program being marketed as an insurance product and you can't have a wellness program being a requirement for the insurance. So there's some language about that. And there are some training requirements that codify training for insurance producers to ensure that they're appropriately prepared to present information to consumers. This was just adopted recently and will be introduced in Montana.

Asm. Cahill stated that we have really discovered over the past couple of years that there's a great deal of interest in this body and this area of legislation and I have a theory that I don't think it's necessarily how much we love our pets and how much we care about them. I think it's that we recognize the microcosmic way we can examine these issues without getting the emotionality that's involved when it's concerning people. So I think it's important that we stay on the same page together and we don't want to do duplicative work.

DISCUSSION ON FEDERAL INSURANCE OFFICE (FIO) ACTIVITIES

Asm. Cahill stated that FIO has been asking a lot of questions lately. They've been gathering a lot of data and in particular collecting data to assess climate-related financial risk. Let's keep our discussion about that. I think it's clear that there's statutory authority for FIO to ask for this information. The question that I want to get to is what do you think about the exercise so far?

Cmsr. Mulready stated that just less than a month ago FIO published a notice and request for comment and they are looking to collect data. Just a quick overview of what FIO did is it put out to the different states a request for information which as far as I know I don't think a single state has collected such data at that granular level. And I think the question a lot of us were asking is why? What are we going to do with that? But I can tell you that a number of states responded as we did that we don't collect at that granular level and we can't meet your 30 day timeline. They really had an ask that was impossible to meet. And they immediately then come out to collect data from ten different states. So they have now focused on ten states and as I look at my colleagues here there's three of us that are on that list including the state of Oklahoma that are especially vulnerable to climate related disasters. But I think our feedback would be this isn't the normal cooperation and collaboration that we would have with them. Typically they would be working with us to gather data from companies and we certainly would prefer that and so we will be submitting a formal comment to FIO on this and there's a draft in the works right now and I don't want to get ahead of ourselves about commenting about that but we're not thrilled with the way that process came about.

Asm. Cahill stated that I understand the delicate balance that you're trying to take place here. You recognize that you have an obligation to work with this agency whether you want to or not. You have an obligation to do so. On the other hand it's difficult to cede territory to an entity that doesn't necessarily demonstrate that they know what they're talking about. When it comes to the jurisdiction of the agency, my understanding is that it is really the gathering of data but I must believe that that's not an unbridled authority to gather any data they want or to tell entities or regulators or even insurers that they have to create that data to be gathered. They're not just gathering data, they're now telling you what questions you have to ask and that's using your resources. So maybe one of the things that is necessary is to open up better lines of

communication with them even if you don't like them and even if you don't think that they have the authority. Maybe we need to start working a little closer with them. What do you think about that idea? Cmsr. Mulready stated that I don't disagree. I'm not an attorney but those that are have reviewed that and believe and maybe indeed there is statutory authority. However, there was not a good faith effort put forward to work in the normal channels that we would work with them on collecting data like this.

Rep. Lehman stated that I remember when FIO came into existence as part of Dodd-Frank in 2010. At that time the concern was we're moving into federal regulation of insurance. I think that we've been watching very closely the last decade and asking if FIO is staying in their lane and to be honest for the most part they have. There's not been that takeover of regulation. I think the real question every time FIO speaks is it to ask the question, why? What are you going to do with it? What is your endgame in all this? And I think what my challenge to NCOIL would be is we want to be a partner with NAIC in making sure FIO stays in their lane. So anything that the NAIC needs help with or that we can coordinate with or show up at please let us know. I want to continue to fight to make sure we are on the same page of McCarran-Ferguson. Dir. Lindley-Myers stated that we couldn't agree with you more. I absolutely agree with Cmsr. Mulready that we feel that there was a right way and a wrong way to approach the subject and FIO chose the wrong way and it is something that we are hopeful that NCOIL will continue to work with us on. FIO chose the wrong avenue in trying to secure this information. Had they come to us to collaborate we could have worked out, what is it that you want, why do you want it and to what end are we collecting this information? So we could not agree more that this is something that we would need the collaboration of NCOIL with.

Asm. Cahill stated that we've had this discussion many times most recently yesterday when we were talking to the legislators attending their first NCOIL meeting - we do consider it a very fundamental part of our organization to support the primacy of the state regulation of insurance. And I think that will always remain very central to what we do and there's also a recognition that there's a need on the worldwide market that there has to be some sort of uniformity in response to the rest of the world. And if that is the intended purpose of FIO and if that's what their mission is then then go forth. But we are very much interested in supporting the NAIC and your efforts to make sure that we all continue to be the place that people go to first and foremost. Dir. Lindley-Myers stated that is certainly our hope as well.

Cmsr. Mulready stated that I echo Rep. Lehman's comments and we agree 100%. I think especially when you're in something like this where you're talking about a lot of resources and hours to put into that both on the regulator side as well as the company's side to develop something like that, it is important to ask why and what is the end game here and what you going to do with this? Asm. Cahill stated that taking it from the opposite end of the spectrum here and the very liberal end of the perspective and the progress end of the perspective - my experience with the federal government's regulation of health insurance under the Employee Retirement Income and Security Act (ERISA) is that there is no regulation of health insurance under ERISA. The rights and responsibilities between insurers and consumers in New York from the New York State regulation of health insurance are vastly superior to those who are regulated under ERISA. So I think it's important that we maintain that state primacy.

Asm. Cooley stated that in a family, the family members can at times spar but the family sticks together. I think we are dealing with consumers and it is a task of lawmakers to watch the laws in their state. We pass the baton to you, the regulators, to oversee the marketplace. You're overseeing rates and what the system pays for. Carriers end up holding the bag if somebody stumbles as we have our whole guaranty system. I just think we need to stand up for the state

based system of regulation. It's not just state-based egotism. It's a customer-focused system of regulation that is granular reflecting the unique character of each state and we do need to maintain solidarity on this system and insist we are a society of laws. And the road through significant public policy change affecting insurance runs through the 50 states capitals and I think on that we need to be backing you up and supporting you and it's a very consequential evolution happening here. We need to not lose track of it.

Asm. Cahill stated that I want to thank you all. This will be my last time chairing anything at NCOIL. It has been a great pleasure. It's been incredibly educational, particularly my time with the Commissioners. I've really enjoyed hearing your perspectives on things. You speak with great humble authority over every subject matter that you talk about. It has been a great honor to serve with you and I thank you all.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Tammy Nuccio (CT) and seconded by Rep. Lehman, the Committee adjourned at 12:00 p.m.