

NATIONAL COUNCIL OF INSURANCE LEGISLATORS  
PROPERTY & CASUALTY INSURANCE COMMITTEE  
NEW ORLEANS, LOUISIANA  
NOVEMBER 18, 2022  
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Property & Casualty Insurance Committee met at The Sheraton New Orleans Hotel on Friday, November 18, 2022 at 3:00 p.m.

Representative Bart Rowland of Kentucky, Chair of the Committee, presided.

Other members of the Committee present were:

Asm. Ken Cooley (CA)	Sen. Jerry Klein (ND)
Rep. Tammy Nuccio (CT)	Sen. Shawn Vedaas (ND)
Rep. Brian Lohse (IA)	Asm. Kevin Cahill (NY)
Rep. Matt Lehman (IN)	Asw. Pam Hunter (NY)
Rep. Jonathan Carroll (IL)	Sen. Bob Hackett (OH)
Rep. Joe Fischer (KY)	Sen. Jay Hottinger (OH)
Rep. Michael Sarge Pollock (KY)	Rep. Brian Lampton (OH)
Rep. John Illg (LA)	Sen. George Lang (OH)
Rep. Edmond Jordan (LA)	Rep. Forrest Bennett (OK)
Sen. Robert Mills (LA)	Rep. Carl Anderson (SC)
Rep. Brenda Carter (MI)	Sen. Mary Felzkowski (WI)
Rep. Kevin Coleman (MI)	Del. Steve Westfall (WV)
Sen. Paul Utke (MN)	
Sen. Paul Wieland (MO)	
Sen. Michael McLendon (MS)	
Sen. Walter Michel (MS)	

Other legislators present were:

Rep. James Kaufman (AK)	Sen. Lana Theis (MI)
Rep. Deborah Ferguson, DDS (AR)	Asm. Jarett Gandolfo (NY)
Rep. Reginald Murdock (AR)	Rep. Jim Dunnigan (UT)
Rep. Kerry Wood (CT)	Sen. Mike Azinger (WV)
Rep. Carolyn Hugley (GA)	Sen. Eric Nelson (WV)
Rep. Rod Furniss (ID)	
Rep. Rita Mayfield (IL)	
Rep. Michael Meredith (KY)	
Rep. Rachel Roberts (KY)	
Rep. Cherlynn Stevenson (KY)	

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 Sen. Mary Felzkowski (WI), and seconded by Rep. Edmond Jordan (LA), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

## MINUTES

Upon a Motion made by Rep. Michael Sarge Pollock (KY) and seconded by Rep. Joe Fischer (KY), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 16, 2022 meeting in Jersey City, NJ and the Committee's September 29, 2022 interim Zoom meeting.

## DISCUSSION ON IDAHO'S EFFORTS TO LOWER THE UNINSURED MOTORIST POPULATION

Rep. Rowland stated that we'll begin today with a discussion on Idaho's efforts to lower the uninsured motorist population. Over the past year we've had several conversations on how states can utilize different methods to lower the uninsured motorist population. Today we're going to hear from Rep. Rod Furniss (ID) who will brief us on some of the legislation he has sponsored in Idaho. That legislation appears in your binders on page 275.

Rep. Furniss stated that this is my fourth NCOIL meeting and I just want to say how kind the leadership and administration has been to me. It's been a wonderful experience for me to get to know NCOIL. I've been an agent since 1986. I spent 25 years with Northwestern Mutual and then became an independent agent in their office. We have P&C agents and all kinds of agents. It's been a wonderful ride for me. We work mostly with c-suite executives and we do self-funded health plans now across the board. Let's talk about Idaho and what they've done there to minimize the uninsured motorist population. HB179 is found in your books on page 275. The fiscal note is on page 278. I'll speak on the pros and cons of the bill we passed three years ago. HB179 is not a perfect bill but it's not bad and it needs to be updated and we hope to do that this year after three years of data. Before the bill, Idaho had no enforced mandate. We had a lot of this ingenuity to have insurance, but we didn't have anything to check on it or any way to find out if you had complied with the law except when you got a ticket or were in an accident and that's a little too late to find that out whether you're the insured or not. The Speaker of the House asked me to champion this bill and they've been trying to do it for ten years. It was only due to technology changes that we were able to put this together and get through it. The Senate passed it and the Governor signed it.

The challenge was to make the clerks at the Department of Motor Vehicle (DMV) office not the bad guys and to continually check insurance after the registration. Many states require insurance and registration but then there's no check after that. How do you know they have insurance after the registration? So we started to work on that. HB179 uses an online program we already had for commercial vehicles and a program that our police officers could access all vehicles to see if they had insurance. But this was only if the insurance company in Idaho cooperated at that time and downloaded their data into our data bank. Many did not, some did. None of the insurers downloaded on a timely fashion. So a lot of the information the police officers were getting was outdated and unreliable. HB179 mandated that companies dump their data into our system at least monthly. If you're keeping track of this bill and you want to know how to write it better I would suggest you don't say monthly and that's one of the changes we're going to make. We're going to have them dump at least bi-monthly and we're going to set a date on that day they dumped - probably the 15th and the first of the month so that we can keep track of that data. So what this program does is it matches the vehicle identification number (VIN)

number with the insurance policy to see if they have coverage. In the bill it says the department shall establish a program to match information from the online insurance verification system with the motor vehicle registrations to determine whether the owner of the motor vehicle has established financial responsibilities. If they don't have financial responsibility then their registration was canceled. How do we do it? By the insurers reporting the data to the verification system and the department performing a periodic match at least semi-annually or semi-monthly. It says monthly in the bill of the information from the online insurance verification system of Motor Vehicle registrations to determine whether the owner of the motor vehicle has established financial responsibility. At the first test we did when we actually ran the tests we had 363,000 vehicles that were uninsured in the state of Idaho. What we found out there was a lot of false positives in that first test. So as we held the data constant and we look down the road two months, we got that number down to about a 100,000 vehicles and that's where it is today. We think there's about a 100,000 vehicles in our state that go uninsured. So what happens? The way the bill works is we match at the first month, we match at the second month. If your car doesn't show up as insured in the second month you get a letter in the mail that says unless you can show us you have insurance by the end of 30 days your registration will be canceled.

Now, in the bill it tells you that you have an opportunity to go in and tell us why your car isn't insured. Is it stored? Did you sell it? Is it insured under a business policy? So the person receives a letter that gives them instructions and it allows a person to tell us if your vehicle is stored or covered in some other way. And they can do that. A lot of agents have gotten on board and helped us with this program where a person may wait until the 29th or 30th day before their registration was canceled and on that day they go in and they can explain to us and upload a document that says I'm insured and the registration won't be canceled. If the registration is canceled, the bill says that they have to pay a \$75 fee plus re-registration to get it re-registered. That's about a \$300 hit to a family if they let that go on. We picked \$75 because we didn't want to be onerous but I will submit to you that it's not enough and that it needs to be higher. Probably in our state \$150 is where it needs to be. And in this bill it says that the fees go to the highway department. I would also recommend, and we'll fix it this year, that part of that fee goes back to the county where that ticket was issued or where the registration was canceled so that the county gets money to re-register those vehicles so we don't have an unfunded mandate back toward the county. So the three months gives us time to tell if that vehicle's been sold or if it's been purchased by someone else but what we've seen are some false negatives in that because the insurance companies aren't downloading it. Maybe they're hitting and missing on the download. We may see times when we'll see a big increase in uninsured motorists in Idaho because the insurance companies haven't downloaded in a timely manner. Some companies download almost every day. Some companies download every other week. Some companies don't download until a month-and-a-half and when that happens all their clients get letters that say they're uninsured and they begin calling their insurance agent.

So it's important that the companies download on their right days. The fiscal note for Idaho is \$345,000. You'll see in that fiscal note we put some money in to advertise this program. We wanted people to know about it. It took about three full-time employees to run this program and the next year we took in \$408,000 in fees and so it was almost a wash on the cost of the program to run it. There are states that have vendors to do this kind of merchandising or keeping track. In Idaho we figured we can save about 75% by keeping it in-house versus hiring the vendor so that's what we did. You'll see on the fiscal note we have postage, we have computers, we also had to do a major change to the computer system that cost about \$30,000 to make sure that we can match those VINs appropriately. Interestingly enough when we matched those VINs we found 10,000 VIN numbers that weren't accurate. The VIN was wrong. The owner was wrong. We were able to clean that system up by implementing this program. The

next year the program actually went higher in cost and we think that was due to the growth in Idaho. Some of the other things that we saw was we saw the state police are really lenient on uninsured motorists. They need to be tougher I think. If they pick someone up and they don't have insurance they'll give them a warning and they'll even give them a second warning sometimes. By the third time though they give them a ticket. We were seeing 1,000 tickets a month in Idaho for uninsured motorists which means they were picking up a lot more people. After the program went into place we were seeing 500 tickets a month so it almost cut those tickets down by half and what it did was it made Idahoans aware that insurance was important. Agents became aware and were helping clients register their vehicles if they went without insurance until the 89th day and it became a program that Idahoans could understand. Now it's not perfect and we still have some people call in that are upset about it because they haven't read the letter they get about storing their vehicles and in Idaho if you have a Corvette you can only drive those four months a year so you have to store it and you'll take the insurance off and so that client has to go in and say it's stored so that the registration maintains itself. But what we're hoping is for example, Liberty Mutual you can go in on your app and you can store that vehicle and when you store it we're hoping that pretty soon we'll get a marker from the insurance company that says this car is stored. If that were the case then people wouldn't have to go into the Idaho system and mark it as stored and we hope technology will keep up to us.

Sen. Mike McClendon (MS) asked if they end up in the database where it shows they don't have their insurance, does that go against your credit score at all? Rep. Furniss replied no - it doesn't hook to their credit score at all. All of it is internal in Idaho. We just notify them that we know their car's not insured or we believe it's not insured. We tell them to go on our website if it is insured or stored and upload the data to prove it and that's it. That's as far as it goes. We did have a lot of fights with insurance companies when I first started putting this together. They didn't want to disclose their data. They were afraid we were going to mix the data. They had to make sure that they felt okay about sending their data to us on a regular basis.

Rep. Brian Lampton (OH) asked if the bill is compulsory or optional in terms of the carriers having to report? Rep. Furniss stated that they have to report, it's not optional. They would have liked it to have been optional but no it isn't. Rep. Lampton stated that you said you started at 300,000 and then it went down to 100,000 - does that mean 200,000 car registrations were canceled? Did it effectively reduce the number of uninsured cars? Rep. Furniss stated that what it did is when we first ran the test on that month there were 363,000 cars that said they were uninsured at that particular time. But as we left that data stagnant for the month of January and we checked on that data in February and March they went down to 100,000 after that. So what it told us was that at any one time there might be 363,000 cars uninsured but they were in the process of getting them insured or they were insured and the insurance company hadn't downloaded the data to us so there's a lag of about two months there. Rep. Lampton asked if you have any overall data about the actual results of if there was a reduction? Rep. Furniss replied yes - by the third test we ended up sending out about 35,000 letters after the second month. So it not only came down to 100,000 it actually came down to about 35,000 by the time we sent the letters out.

Sen. George Lang (OH) stated that he is curious about the notification process and the accuracy of it in terms of address changes, cell phones change, and emails change. I'm curious about the accuracy of the notification process and maybe any backup plans? Rep. Furniss stated that is a good question. When the insurance company sends up that data on the VIN number we also get the most current address so we've had very few letters come back because of that information that we have but we think we could cut those costs down by quite a bit if the insurance companies would download twice a month rather than once a month. We think it would almost

cut the false positives in half if we could get a better connection. Sen. Lang asked if the primary source of contact is direct mail. Rep. Furniss replied yes - we didn't e-mail but in the bill you'll see that if they want to they can e-mail proof of insurance back to the department and we'll accept that.

Rep. Rowland thanked Rep. Furniss and stated that if anyone has any thoughts or suggestions on this topic please reach out to Rep. Furniss or NCOIL staff.

## PRESENTATION ON DEVELOPMENTS IN THE SURPLUS AND EXCESS LINE INSURANCE MARKETPLACE

John Meetz, Senior State Relations Manager for the Wholesale and Specialty Insurance Association (WSIA) thanked the Committee for the opportunity to speak and stated that our association represents brokers, carriers and service members operating in the surplus lines industry. So, today we plan to give you a bit of a crash course on the industry, give you some updates on some recent market and regulatory developments. One quick point I want to make as you may hear me say surplus lines, you may hear me use the New York term excess lines. You may hear the word non-admitted. I'm going to try to stick to E&S as a catch-all for all those things but for our purposes today just understand that those are fairly interchangeable words. So each state has established public policy that provides a legal framework for obtaining insurance when the standard or admitted market is unable or unwilling to write a particular risk and that was not an accident. Your predecessors, your colleagues, and many of you were involved in those decisions to set that public policy. So what kind of risks are we talking about? Really three main categories. Typically, they fall into high-capacity, unique or emerging risks. And here's a few examples of high-capacity risks. Obviously you can see skyscrapers, large property, terrorism, political risk, special events, festivals. Here's a few examples of unique risks, medical research, product recalls, pollution cleanup. And here you see a couple of examples of emerging risks. It is entirely likely that someday the cannabis industry will be insured through admitted products - same with autonomous vehicles. But until the admitted industry obtains the experience necessary to do that the E&S market will step in and make sure those industries are insured.

So, I want to take a minute and talk about how our industry is regulated and really emphasize that yes it is regulated contrary to what you might sometimes hear. In the admitted market each state regulator has the opportunity to regulate any carrier selling products sold within its borders. But E&S carriers are regulated by their state of domicile for the purposes of solvency and the licensed surplus lines broker is responsible for most of the compliance in the transaction. They are responsible for complying with all the relevant state laws. They're responsible for placing coverage with a financially sound insurer, reporting that transaction and any relevant data to the home state, collecting and remitting premium tax, and again assuring that each transaction is in compliance with all of the applicable state laws. So why are E&S insurers able to write risks that are rejected by the admitted market? Well again, each state has established public policy that provides for freedom of rate and form for E&S policies and our members are able to do their job because they uniquely tailor the terms of a contract to the needs of the consumer. So as we say if you've seen one E&S policy, you've seen one E&S policy and I think preserving that principle is probably the most important takeaway from my presentation today. But I want to reiterate that doesn't happen as a first resort. So insurance can only be placed in the E&S market after it's been rejected by the admitted market. And how does that happen? Most states have a process for verifying a diligent search among admitted insurers has taken place. The traditional method for that is a producer must obtain three declinations from admitted insurers but some states are actually moving away from this recently. And why? Well, it can be burdensome. It's actually

quite redundant for a producer to ask the same underwriter over and over if they're willing to insure a risk that they know darn well that the underwriter won't write. And what we found is actually that the wholesale distribution system actually has more to do with keeping business in the admitted market.

In 2010, Congress passed the Non-admitted and Reinsurance Reform Act commonly referred to as the NRRRA. This was a critical law for our industry because before it was passed there was no clarity over which state has authority to tax and regulate multi-state E&S transactions. So, the NRRRA established that the home state as defined by the law of the insured has the sole authority to tax and regulate each of those transactions. So that brings me to my final point and why I'm here. Last year the National Association of Insurance Commissioners (NAIC) surplus lines task force appointed a drafting group to update their Not Admitted Insurance Model Act to correspond to those changes that occurred in the federal law in 2010. So their work is coming to a close and we expect that model to be adopted either later this year or early next year. The good news is neither we nor the NAIC is giving anyone here any marching orders. This is not an accreditation standard and even if it were, basically every state has adopted some form of law to correspond with the changes that occurred in the NRRRA. But this may be an opportunity for you to take a look at your state E&S laws to see if any updates are necessary and we are happy to assist any legislators if you're willing to undertake that process. I want to thank Commissioner James Donelon of Louisiana as he chairs the NAIC surplus lines taskforce and his staff for drafting. They did exemplary work on revising this model and did it in extremely quick fashion especially relative to some other model laws. So we just want to thank them for all their cooperation and hard work on that.

Howard Green, Director of Gov't Affairs and Strategic Initiatives at the Excess Line Association of New York (ELANY) thanked the Committee for the opportunity to speak and stated that ELANY is a nonprofit organization that was created by statute in New York to facilitate compliance with New York excess line laws. So, I want to get a little perspective on some of the things that we've been talking about and what I'm going to talk about. Everything I'm going to talk about is the way it is in New York because we're a New York organization so it's focused on New York but I think highlights the market nationally in many ways. The E&S policy count in New York is very small in comparison to the admitted market and the premium is as well. If you see it standing by itself it seems a little more substantial when you look at the total market. It's a small part of the market and it's dominated by higher risk insureds and unique coverage needs. So let me give an example of what I'm talking about and of the way that the E&S market sort of focuses on certain things in New York that admitted carriers don't want to do. We commissioned an independent study to analyze the New York homeowners market. We thought that was a pretty easy thing for most people to identify with and to get their arms around. In 2017, there were 20,000 E&S homeowner policies issued in New York. In New York there are 2.86 million residences. That means if you look at New York residences only seven tenths of 1% of residences are actually insured in the E&S market place. Again, in New York there are two factors that the study found that drive homeowners risks to the E&S Market - one is increased wind exposure in coastal areas and the other is high valued homes. E&S homeowners policies are concentrated on Long Island. It's more than 60% and if you see a map of New York then you'll see that Long Island has the most exposed place in New York State to storms coming off of the ocean.

Most of what's in the E&S market are within 1,000 feet of the coastline. Most homes and almost 80% of E&S premium insures high value homes. Specifically, the E&S market has had more than a 90% share of wind storm risk homes and that is those homes that are within 1,000 feet of the coast. In contrast, as you move to homes that are more than one mile from the coast the

admitted market has 99% of the market. The average insured value per policy in the excess line market of a home was about \$855,000. So that kind of demonstrates what we were talking about in terms of exposure to wind in coastal areas and high-value homes. Let me give a specific example and that is the example of Long Beach, Long Island which is a place that got devastated during superstorm Sandy back in 2012. If you look at the chart up on the screen and you look to the right, you'll see total policies in Long Beach and as of the time of superstorm Sandy in 2012 there were 989 E&S homeowners policies written in Long Beach and that was about the same a few years later. But by 2021 it was down to 419 and that is well less than half. What happened in a relatively short period of time? Well, what happened is that after superstorm Sandy devastated Long Island, homes were raised higher up to avoid flood risk. They were raised which means brought down to the ground, disposed of, rebuilt, and all of this was done with wind and flood risk mitigation designs. So what happened? As a result, many Long Beach homes became much more risk-averse and therefore much more insurable in the admitted market and we've seen the admitted market move back into Long Beach and the E&S market recede in terms of its role there. That's exactly the way the market is supposed to work. How is E&S placed? It's placed through licensed E&S brokers and there are two types. One is a retail broker and retail brokers represent the insured and go straight to the E&S insurer and go straight to the market. Wholesale brokers are brokers as you could guess where they're licensed to deal with placing with E&S insurers but they don't deal with the insured, they deal with retail brokers who are not E&S brokers. So, as you'll see from the chart the transaction share for wholesale brokers is overwhelming, it's 83%. The premium is a little different while it's still favors wholesale brokers it's more of a 60/40 split.

And why is that? Well retail brokers tend to be large brokers that represent large risks and they have a need for capacity so they will have risks that are too large for any one insurer to write. An example would be you'd have a \$700 million skyscraper, you're not going to get one insurer to write that. Nor do I think you'd want that. So you go out to 14 insurers and you put together a program and each insurer might take \$50 million. Retail brokers will do that and they'll access the E&S market directly. Wholesale brokers on the other hand serve the retail brokers on their deep difficult accounts, the retail brokers. Most retail brokers around the state and in the country are not licensed for E&S and so they have to go through wholesale brokers. Now in 2021, 8,162 retail brokers utilized wholesale brokers to place E&S risks. That is out of 48,000 total New York licensed brokers in New York so maybe about 17% even access the E&S market through wholesalers. Out of those, 70% of the brokers who did that placed less than ten policies into the E&S market and that is a pretty strong indicator to us that these retailers only go to the E&S market when that's what they have to do to serve their clients to get insurance but can't get in the admitted market and there's a lot of incentive for them not to do that. They don't want to split their commission which is what they have to do if they bring in another broker. They have relationships with their admitted carriers. Maybe they have direct bill. There are various reasons why they don't really want to go to the E&S market but it's what they do when they have to do that. Now market growth in the E&S market is often found in new emerging product categories and one example of that would be cyber liability and the numbers are pretty startling. The first year, a full year of reporting on cyber in New York we had 3,649 cyber liability policies filed. This year in the first nine months alone we're approaching 12,000 policies. That's become a much hotter area in terms of insurance. It's in the E&S market typically because it's not a settled area yet and the admitted carriers tend not to want to write that as much. Certain products are consistently in the E&S market and construction is the prime example in New York – 17% of the total New York E&S market is construction in terms of policies; 20% of the E&S premium. And that's because if you look around the New York City metro area you can't help but see all the skyscrapers and when they are built, they're built in spaces and at great elevation so it's more dangerous and more complicated and in New York there's strict liability for gravity related falls

when working on a construction project so the risk is greater and these risks come to the E&S market.

Just as a quick aside, E&S insurance is almost 100% P&C so when we're talking E&S we're almost always talking P&C insurance. So some conclusions. The New York E&S market serves the need for which it was created as it insures risks which licensed insurers choose not to write and the small size of the E&S market, plus the nature of the risks as demonstrated by the numbers that I've provided sort of proves this conclusion. Our future expectations and aspirations for the E&S market would be that E&S will continue serving hard to insure populations. The market will be viewed through the prism of granular data and what we mean by that is looking at the market not just in general terms but specifically what's insured in the E&S market and what's insured in the admitted market. That's when you get a much better understanding of why things are going to the E&S market and why things stay in the admitted market. Regulatory uniformity is important which we believe will reduce costs and benefit insureds and that goes past New York. And then also sort of an overriding objective that's not just New York which is that public policy should maintain its focus on differentiating between the E&S market and the admitted market and I'll give one quick example and finish off like this. In the last couple of years during the pandemic New York had some emergency regulations which impacted insurance very directly and the New York State Department of Financial Services actually was very careful to maintain the differentiation between the E&S market and the admitted market when interpreting those regulations.

Sen. Bob Hackett (OH) stated that I have actually two questions. How many of the companies in the E&S are international companies? Because we see it a lot in reinsurance. Mr. Meetz stated that I'll have to get back to you with an exact number. Sen. Hackett stated that the reason I ask, and I carried legislation on this in Ohio, is that Ohio used to require for an insurance company with international presence 100% collateral and we changed that in Ohio because Ohio's a big insurance state and we had the potential of losing some decent amount of business. So we left it up to the insurance commissioner - she still can look at the international company and say they're not sure on that and still require 100% but usually we try to treat the international companies well because we all know it in the room that a lot of the big conglomerates are international companies. Next, the admitted carriers don't have secondary insurers that they use so they're usually going to the reinsurance market, right? Mr. Meetz stated that they utilize the reinsurance market, sure. The international insurers have a decrease in the amount of market share in the U.S. The NRRA dictates the terms by which they are regulated through the NAIC's International Insurance Department (IID) list so that's how that works. Mr. Green stated that I would just add that in New York and I believe nationally Lloyd's of course is a huge player. Sen. Hackett agreed and stated so is Zurich. Mr. Green stated but most of the bigger ones in New York I believe are U.S. companies.

## DISCUSSION AND CONSIDERATION OF MODEL LAWS

### *a.) NCOIL DELIVERY NETWORK COMPANY (DNC) INSURANCE MODEL ACT*

Rep. Rowland stated that at this time we'll move into item number four which is a discussion and consideration of the NCOIL DNC Insurance model act. We have three model laws to discuss today and I will begin with this one which I'm proud to be the sponsor of. We've been discussing this issue for nearly a year now and we've made great progress and I think today this model is finally ready for a vote. You can view the model in your binders on page 279 but before we proceed I would like to note two minor technical changes to the model. The first is in Section 3(b). Language will be included just to make clear that the insurance required to be maintained



insures the driver of these delivery network vehicles. This is really just a belt and suspenders change and is consistent with the intent of the model. The change is also exactly the same language that we have in the NCOIL Transportation Network Company (TNC) model which has been adopted in almost every state. The second technical change is in section 3(e). A clarification will be made that coverage can be obtained by eligible surplus lines brokers or insurance companies. I will just note that this model is a great example of NCOIL being at the forefront of an emerging issue and being able to move swiftly to provide states guidance. You'll certainly see this model introduced across the country next year. I will go ahead now and hear from our interested persons who would like to speak and then we'll turn it over to the legislators.

Frank O'Brien, VP of State Gov't Relations at the American Property Casualty Insurance Association (APCIA) thanked the Committee for the opportunity to speak and stated that I am very pleased to be before the committee today in full support of this DNC model. This model is the product of the NCOIL process which includes extensive consultation with state lawmakers and the use of a stakeholder process that had all of the parties at the table which produced the draft in front of you today. It is a draft which maintains NCOIL as the pre-eminent place where you go if you want to have model legislation that appropriately regulates the shared economy space. This is the latest but I don't think that it will be the last. So with that Mr. Chairman I commend you and I commend the members of the committee for your actions on this and I look forward to its approval.

Jon Schnautz, Assistant VP of State Affairs at the National Association of Mutual Insurance Companies (NAMIC) thanked the Committee for the opportunity to speak and stated that in deference to the committee's time I'll be really brief and echo everything Mr. O'Brien said. We are also fine with the changes that you mentioned and thanks to you and Del. Steve Westfall (WV), co-sponsor of the Model, for carrying it.

Sen. Lang stated that I'm a little confused about when the coverage would start for this. Would it start when the delivery or the call for service is requested or would it start when an app is turned on saying hey I'm ready for a job? Mr. O'Brien stated that with your permission, Mr. Chairman, I'd like to ask Brad Nail to come to the table as he was the person who led the stakeholder conference on this particular issue and I think it's only appropriate that he be at the table because it was his leadership that produced a lot of the results here. Rep. Rowland agreed and stated that a lot the conversation around the model was around the delivery availability period.

Mr. Nail of Converge Public Strategies stated that I think the easiest way to answer that is that a key component of the model is that the personal lines insurer that insures the vehicle, because it's personal auto, can exclude coverage. So the model needs to make sure that the DNC provider has coverage in place whenever that personal lines has excluded coverage so it may be when they have just turned the app on to indicate that they're available or it may be when they're providing the actual delivery and there are a number of different companies in this space that operate in different ways so it's hard to have a one-size-fits-all to describe that but the end result of the model is that coverage will be in place whenever it is not provided by that personal lines insurer.

Rep. Jim Dunnigan (UT) asked typically when will a personal line coverage end? What triggers it? Mr. Nail stated that it depends on how they write it. They may choose, this is supposition on my part, that they will not cover when you are actually on the road making a delivery because that's commercial activity that they don't want to cover so the concept of having to cover when you're just available to provide that the personal lines insurer may go ahead and cover that time period. They may not change their policy language. Rep. Dunnigan asked what if they don't?

Then is a person without coverage or who covers it? Mr. Nail replied no and stated that if the policy language is unchanged then they have coverage through their personal insurer, as they would any other time. If the personal lines insurer excludes coverage then the DNC has to have coverage to step in. Mr. Schnautz stated that the key language there is in section 3(a) and that is really a default rule. If no other coverage is in place then the DNC has to provide it during those applicable periods. It doesn't rule out that the private passenger auto policy might provide coverage through endorsement or otherwise but if it doesn't the obligation falls on the DNC.

Sen. Hackett stated that I agree and appreciate that but Uber and Lyft operate a certain way and you saw the problem with the insurance industry with the TNCs that either model didn't work so we had to develop a model because they didn't want it to go on to personal auto when it was a business activity. Well now you have companies that contract like Amazon will contract and they have everything already set up. They're not always happy if someone turns the app on so it's hard to get the legislation right and usually we create a framework and then they go to the states to get it right in each state depending on the states but can't we get this right here to protect the companies like the Amazon types and also the Uber and Lyft types because they are totally radically different in how their business models work. Mr. Nail stated that I think we did get it right here. What we've done is I think it's pretty clear that when they're making the delivery, that's the commercial activity it's got to be covered. When some of these folks operate like an Uber and Lyft where they might be driving around that is addressed here and then for the folks that have more of a scheduling process where you don't really just drive around indicating that you're free right this second but you're scheduled for a later time I think that's addressed in here as well in the delivery available period definition where the coverage is only required while you're actually driving a car and available to make that delivery. Sen. Hackett stated that so the coverage isn't there when they turn the app on. What if the driver on the weekend turns his app on to see when his schedule is next week – is the coverage there when the app is on? Mr. Nail stated that you have to be driving a car while you're doing that and then coverage would apply.

Sen. Lang stated that I'm pleased with that answer you just gave but what if there is a company out there, because these are mostly independent contractors if not fully independent contractors, who's business model is I'm going to pay you twice what my competitor pays but in return I expect you to supply all of your own insurance and whatever else there is. I'm just curious if we're interfering with the free market in any way. Mr. Nail replied no - this model allows for the driver to provide their own coverage so it has flexibility in that respect.

Seeing no other questions or comments at this time, upon a Motion made by Rep. Michael Sarge Pollock (KY) and seconded by Rep. Tammy Nuccio (CT), the Committee voted without objection by way of a voice vote to adopt the Model.

*b.) NCOIL DOG BREED INSURANCE UNDERWRITING PROTECTION MODEL ACT*

Rep. Rowland stated that we will now move on to our next model - the NCOIL Dog Breed Insurance Underwriting Protection Model Act, sponsored by Asm. Kevin Cahill (NY), NCOIL Vice President, and co-sponsored by Rep. Nuccio. I'll turn things over to Rep. Nuccio for some remarks.

Rep. Nuccio stated that I'm proud to sponsor this model alongside my colleague Asm. Cahill. What's great about this model as you'll hear from the people who are going to be speaking about it today is that when we started discussing this a few meetings ago it was very contentious and it seemed that a model may not be able to actually be achieved and adopted. However, in that time we've had a lot of meetings and everyone has come together to reach a compromise and

it's a great example of NCOIL serving as a forum where people with different views can engage respectfully with each other to discuss good legislation that meets the needs of all sides. You can view the model in your binder on page 285. As you can see, we settled on removing the data collection portion of the model and chose to focus on the restriction of the use of dog breed in homeowners and renters insurance policies. We also changed the effective date so that insurers will have more time to comply with the model's provisions. I appreciate everyone's work on this and I look forward to continuing to work on it in my own house chamber in Connecticut. I think it's also very likely that we'll see this model legislation introduced in other states as well. I won't take up any more time Mr. Chairman at the substance of the model has already been thoroughly discussed over several meetings and we've reached a point of agreement amongst ourselves, Asm. Cahill, and all of the interested parties including industry and advocates. Thank you and I look forward to the committee's support.

Ledy Vankavage, Sr. Legislative Attorney at Best Friends Animal Society thanked the Committee for the opportunity to speak and stated that I really appreciate having this opportunity to speak on this issue and thank you for your leadership and the leadership of Asm. Cahill and Rep. Nuccio. I hope that this issue didn't drive you away from the chairmanship because we think you've been a very good chairman and we really appreciate everyone coming together to work on a framework that we can replicate throughout numerous states and keep dogs with their families because people love their dogs and we want the focus to be on the behavior of the dog and the behavior of the owner, not their breed. So, again thank you and thank you to my colleagues at APCIA and NAMIC and again thank you so much for your patience and we appreciate everything you've done to keep dogs out of shelters.

Mr. O'Brien thanked the Committee for the opportunity to speak and stated that once again this is also an example of how the NCOIL process works. Those of you who have been attending these hearings know that this was an issue that could not have gotten any more contentious. Having said that, with the work of Asm. Cahill and Rep. Nuccio we were able to come to a workable solution on this. We believe that this model appropriately balances the need for insurers to assess the risks and price it accordingly while on the other hand understanding the public policy issues surrounding our relationship with our canine companions. And with that Mr. Chairman APCIA urges the committee to support this particular model.

Mr. Schnautz thanked the Committee for the opportunity to speak and stated that NAMIC very much appreciates the data collection provision being taken out. That was our concern with the model as it stood a few months ago and without that we have no further concerns. We appreciate the work on this.

Brittany Benesi, Sr. Legislative Director, Western Region, at the American Society for the Prevention of Cruelty to Animals (ASPCA) thanked the Committee for the opportunity to speak and stated that I would like to thank this committee for the work that has gone into the development of this model and for your receptiveness to input along the way. While ASPCA ultimately believes that breed should be excluded entirely from underwriting decisions, we feel that this model is an excellent place to start and look forward to working with state legislators and helping keep people and pets together and in their homes. I respectfully ask for your approval of the model today.

Jessica Simpson, Sr. Public Policy Specialist at the Humane Society of the U.S. thanked the Committee for the opportunity to speak and stated that I echo my colleagues remarks and just want to thank the committee for your continued work on this important model legislation. And especially Asm. Cahill and Rep. Nuccio for your continued dedication to ensure that people are

able to remain with their pets and have appropriate coverage in their insurance. And with that I ask for your approval of the Model today.

Rep. Carl Anderson (SC) noted how great it is to see how both sides have worked together to come to a compromise.

Seeing no more comments or questions, upon a Motion made by Rep. Nuccio and seconded by Rep. Forrest Bennett (OK), the Committee voted without objection by way of a voice vote to adopt the Model.

*c.) NCOIL INSURANCE UNDERWRITING TRANSPARENCY MODEL ACT*

Rep. Rowland stated that at this time we will move to the discussion around the NCOIL Insurance Underwriting Transparency Model Act sponsored by Rep. Matt Lehman (IN), NCOIL Immediate Past President, and at this time I want to turn it over to Rep. Lehman for some opening comments.

Rep. Lehman stated that I'm not going to go deep in the Model today because we have been at this for a while now. We've been having discussions for a long time now about the changing world of technology and rating models are changing and how information is exchanged to our clients is changing and that's being used to affect their premiums and so we really need to get to the "why?" And the whole genesis of this a year ago was to get to a place where there's some transparency so that when a person comes into an office - and I'm an insurance agent and we always put ourselves out to be professional advisers. We'll analyze your risk. We'll tell you what's the best way to protect that risk and protect those assets and then we go out and find the best product at the best price for you. When those prices change right now the answer I'm getting from my carrier's is, "we don't know." And so my response to my client asking "why did my rate go up 18%?" is "I don't know." And as we're sitting here I got an email from one of my underwriters because I got a renewal - two vehicles to retirees driving their vehicles around town. One vehicle stayed flat. The other one went up \$40. And I just simply reached out to underwriting and said, why did it go up \$40? The response was the liability symbol changed and therefore the rating changed. Would you give me \$40 for that answer? That's what I'm getting. And the frustration here is we have to get past the "I don't know." So what we began to look at was how do we get some transparency built into this? And this Model was introduced and has taken 1,000 turns. If you look on pages 287 to 290 we've used as much red ink as Washington D.C. It has moved. However, I am hearing from a lot of people that there is still work to be done. There's still things that need to change. There was an issue around duplicative reporting, that if we're doing this under the credit scoring model which requires me to disclose certain things don't make me do it again. And we can work on those nuances. I think this really comes down to two issues. One is the issue of declinations. If someone is declined for not getting insurance, should they be given a response as to why? Again, 30 years ago I could tell you why - you're a horrible driver or you have five speeding tickets or you had eight crashes in the last year. And then credit came along. We said well part of it is your horrible credit risk. Now it's just no we're declined. So that's an issue. Also, what number of factors should we say? Is it ten, is it five? What do we need to disclose? The credit model we passed I think is working in states and it requires four things you have to tell the insured. If you look at the banking industry, if your credit score changes they're required to notify you of the factors, and I think it's four, that caused your rate to change. So there's a model out there that says just tell me why.

So I don't know if that's the answer but really what it comes down to is, if the language we're looking for to answer the question of "why" is out there we've not found it yet. And I don't know if

it's ten factors or five factors or just a true transparent explanation that I can pass on to my client and my client can somewhat understand it. The other thing I'll say is I've heard from the industry that we've got to play some defense here against what's happening in Washington State which has taken a much stricter position on these issues and has simply prohibited the use of certain things. Here at NCOIL we're saying you can use it but you just have to disclose it in certain ways. And I think that as much as the broker world is saying "I don't know," the department of insurance is saying "we don't know" and my biggest fear is when regulators say "we don't know," the answer is "no." And I do think there's technology out there and I do think these models are very sophisticated and I think they're actually probably fairly accurate but there just needs to be some transparency. And so I am concerned with the alternate and that's why I really want to focus on not what you can and cannot use but more on the transparency so that we do see what you are using. So I don't think we have found the magic language yet. I'll defer to the Chair on this but before I would ask for this committee to move, I want to hear from the industry and I want to hear some of these questions answered - how do we become transparent to our constituents? I had someone ask me - are people complaining about this? And yes, I've had people complain to me about the lack of transparency. But what troubled me more was the departments have said the complaints are coming against the agent because we're hearing "my agent's not telling me why I had a price increase." And so I think before this thing starts rolling down hill to where we can't get to a good place, I do want to continue to work on this and get to the right place. So I want to hear what you feel about the model and your concerns with the model and then what your plans would be moving forward to help us create the elimination of the "I don't know."

Mr. O'Brien stated that I find myself in a much more agreement with everything that you have said than I expected to be when I sat down here. Speaking for the members of APCIA, we are 100% with you in terms of the need for transparency and for the need for insurers to be able to coherently and efficiently communicate to the producer community as well as to our policyholders or customers if you will, the reasons why something is happening to their particular policy. We agree with you wholeheartedly that answers such as "it's what the computer told us" are unacceptable. We agree that "insurance speak" such as "there was a change in symbol or there was a change in this or that" - that is quintessential "insurance speak" and is not appropriate in terms of communicating that to a customer. Maybe the agent understands it and would be able to translate it for a normal human being. That certainly is I think something that's doable. We would like to be in a position to support and we think that we are in a position here at NCOIL with the basis of the model that has been proposed in the substance in the sponsor's substitute draft which is reflective of some suggestions that the agents in APCIA and others provided to the sponsor. We think that we are a long way there. Unfortunately at this particular point in time we think that there are some additional changes that need to be made. For example, Rep. Lehman noted the Fair Credit Reporting Act language. We think that that's a relatively simple fix all things considered. We think that is a fix going forward. There is some controversy surrounding whether declinations should be included. My association is agnostic on that particular issue but there are some other provisions particularly around very lengthy and somewhat confusing sentences concerning the ten factors which we think needs more work and more thought. I've said this to a number of people and I don't want it to in any way denigrate the product that were attempting to produce here but the cake isn't baked on this yet. I think this cake needs to stay in the oven a little bit longer and I think that we can as an industry and as a group of public policy makers produce the type of result that will position NCOIL as a leader on this particular issue as NCOIL has been positioned as a leader on the two models that you all just approved and I think that there's an opportunity to do that here and we look forward to working with this committee. We look forward to working with Rep. Lehman on what could be one of the most important aspects of public policy related to insurers and how we relate to our customers that we may be working on in the next few years.

Mr. Schnautz stated that first, Rep. Lehman I do want to say with respect to your red ink comment you are absolutely right you have made a lot of changes that I think come directly from long and I think for you painful conversations that we've had that I appreciate. I think you've also identified the remaining issues that we have very succinctly. The idea that we have been pushing here from the beginning is that the key here is value. Companies can, large companies at least, probably build systems to make whatever sort of disclosures you would want them to make. The question is those are not cost-free systems. We have some idea from the Washington regulation, which it's not fair to compare to this, but we know those can be very costly for both big and small companies and so the question is what is the cost of that which ultimately will be borne by policyholders versus the value to policyholders. And that's the needle that we're trying to thread. I will say on the declinations issue that is one of our remaining issues. The reasons are several. One is, the comments you made at the beginning of this were all about premium increases. That has been the most acute discussion here in terms of what the issue is and we think that's appropriate as there's an existing contractual relationship there and some explanation makes more sense. To give an example of the interaction between a couple of the provisions that are still in the bill that we think are problematic, let's take the declinations provision and the fact that it's still included and the ten factor sentence that Mr. O'Brien referenced. I think it's a reasonable reading of that to say that if a potential policyholder is declined, that's a binary choice of you write them or no you decline them, that company to comply with that would have to go through every relevant factor that it used in that decision, rank them, try to figure out what the top ten are and then report them to that policyholder. And doing that is not a very simple thing because it may not be a binary issue of just one of those factors. It could be a combination of all of them and I think that sentence is so prescriptive that particularly in the context of declinations it creates a notice that would be very hard to produce and probably of very little value. Because frankly it's not going to change the company's answer on whether they'll write the coverage. The person's going to have to go find coverage elsewhere. So I think that's a good illustration. And the credit interaction issue I think that one is fairly easy to address and I don't think anyone here wants it to be duplicative and we agree with that. So we would look forward to the chance to continue to work on this. We've been working on it for a while. We think we've done that in good faith to try to reach something that we could not only not oppose but possibly even support because I think Rep. Lehman you're right this is an emerging issue and it is a tough one to crack and the industry would benefit from greater public confidence than what it is doing and we want to find the right answer there.

Wes Bisset, Senior Counsel at the Independent Insurance Agents & Brokers of America (IIABA), thanked the Committee for the opportunity to speak and stated that we are big supporters of Rep. Lehman's efforts and I'll walk you through some of the reasons why and hopefully not reiterate many of the comments that Rep. Lehman made. We do see a need for this model. The underwriting rating process in the personal lines world has become increasingly complex and opaque. In recent years companies are using advanced analytics and vast new types of data and complex models that just weren't in place even a few years ago and the result that these models sometimes produced are counterintuitive. As Rep. Lehman said, it used to be much more intuitive in the insurance personal lines underwriting context. If you had a lot of accidents you can imagine why your rates went up. Or if you have teen drivers coming on your policy there was a natural tie-in and much easier to understand. But when there's a large rate increase that is counterintuitive it leaves people wondering why and in some cases could potentially lead to an outcome where people are wondering if the price they have been quoted really represents the risk that they ultimately presented. And agents struggle sometimes to provide explanations for customers who are kind of wondering exactly why their rate went up 20% or why they were non-renewed and it can lead to false conclusions that we don't want to have occur. So basically, all

the model would do would be to establish some basic transparency in this process if requested by the customer, if a consumer was non-renewed, or if their rate increased a certain percentage, that they can then ask the insurer for a list of the primary reasons for why that decision was reached.

So hopefully it would do a few things. It would hopefully facilitate a basic understanding of the reasons for that increase. If the information had been utilized was incorrect or inadequate or incomplete the consumer then go back and take action and potentially improve their outcome. And hopefully in a big picture way all of this would help restore faith and trust in the insurance rate making process. And some might look at this and say this is radical and coming out of left field but honestly this is not a new or novel context. There was a big data revolution about 20 years ago when companies began using information based on credit histories and credit reports in underwriting. And actually 20 years ago at this this very meeting NCOIL adopted a comprehensive model that established the regulatory framework for how credit information and history's could be used by the insurance industry. What's ironic is at that time there were companies who were really skeptical of the NCOIL credit model and they've become big supporters and believers in that in the years since. But among the many provisions in there, there was one that Rep. Lehman mentioned that requires that if an adverse action is taken that the reasons for that be explained in "clear and specific language." That's been broadly adopted and it may be NCOIL's most successful model. And all the proposal does here is essentially keep up with the times as data is changing and in kind requires the same type of adverse action notice given the new underwriting and rating factors that are being employed. And the other issues were behind the banking industry on this - for many years federal law in the form of the Equal Credit Opportunity Act and regulation B has required disclosure of the specific principal reasons for adverse actions that occurred in connection with an application for an extension of credit. And that applies to the federal regulators who said you're not even allowed to use a complex algorithm if when an adverse action is taken you can't explain the reasons for that action.

So there is a need for a proposal like this. There's a particular need for a reasonable and legislative based model of this nature. We already have individual states taking action. We have the NAIC contemplating action in this particular context. So having an appropriate narrowly tailored model is incredibly important especially because requirements like this should be established by statute and not by unilateral regulatory action. So having a transparency based approach we believe is the right direction being big supporters of the state system and of the risk-based pricing models and framework that we have. The only thing I'd say is whether you ultimately consider this today or in the future we'd urge you to move forward on this even if you conclude this is not something you want to bring back to your home state and act on maybe now or even in the near future. But there is sufficient interest among the states and they're going to be looking to do things like this and it would be helpful to have a reasonable narrowly tailored model and not have those states acting on this in an ad hoc way. I'll close by saying that to keep up with the times in the emergence of new data sets and in complex models we think it's reasonable and narrowly tailored in its current fashion. So whether it's today or in the near future at an interim meeting or in San Diego whenever you take this up, we'd urge your support and I hope if it is delayed that any delay would not be an effort by some who have concerns to essentially kill this all together and that it's truly in good faith to come to the table and negotiate and make this the best product it could be.

Sen. Hackett stated that first of all I want to thank Rep. Lehman as you have worked so hard on this. What Rep. Lehman said is we've moved into the modern age and these formulas are a lot more intricate than what we had in the old days. The problem I think some people have is we're

worried about the cost of this and I agree with Mr. Schnautz saying you should look at cost versus value and I agree with that. We want to control costs and we don't want to create a business environment that's really costly. I've always said as insurance chair that the good legislation is legislation that is good for the consumer, good for the producer, but also good for the company and so that's why this is a really difficult issue. And I do get on the insurance companies to say that we have to get this resolved and it's the smaller insurance companies that are objecting the strongest because they're looking at what it's going to cost them to put this into place. I defend Rep. Lehman to the end because he has worked on this so hard and it's a really difficult issue and he's working hard to get it a solution on it and we're close and the only message I give the insurance companies is we must get this resolved in the next couple of months because if we sit on it much longer some states are going to go act on their own and they're going to be a lot more strict than we will. So we must be careful in the message we send but cost is such a major issue that we worry about creating additional regulations and additional costs. And I'm not a producer in P&C but I'm a producer on the financial side and I realize that this industry has changed drastically and I do think it's for the better because it's more accurate. I think it's great that the insurance industry wants to get this resolved but we want to get it resolved quickly. We should postpone it but let's get it resolved quickly.

Mr. O'Brien stated that Sen. Hackett, I agree with everything that you've said. Mr. Bissett and I agree with most everything you've said but we need to get this right. We have worked very hard on this. We do understand that part of what we're talking about is the credibility of the insurance industry in the product that it delivers and people want to know that they have been dealt with fairly. And in terms of dealing with people fairly they don't want to know what happened, they want to know why it happened, and they want to know in such a way that is understandable so that they can make an appropriate decision. We want to be in a position where we can take this legislation and put it in place in our companies so that it can be put in place as a standard practice in such a way that it is cost-effective and produces a result that's going to generate the desired result which is people know what's going on. We commit to the sponsor. We have said to the sponsor and we commit to the committee and commit publicly that we are all in on this and that our concerns and our request for a delay are in no way dilatory or intended as an artifice to end up with a result that produces nothing. It's important to get something done and something done right.

Rep. Anderson stated that first of all I want to say thank you to Rep. Lehman for all of his hard work and he has a heart of a champion because he cares about everybody and everything that is going on and that's why we are hearing him talk the way that he's talking today. And thanks to all of the speakers here today from industry agreeing this is important. I heard from some of my colleagues back in South Carolina today from the insurance side of things and this is what they said - please remove the premium increase language from the definition of "adverse action" because it's unnecessary and confusing to lump together premium changes and declinations. South Carolina already has laws on both of these subjects. Secondly, please do not make a violation of this proposal to be punishable under the Unfair Trade Practice Act. I just want us all to consider all of these things and I'm sure that around this table there are others who have heard from insurance companies in their area.

Rep. Rita Mayfield (IL) stated thank you Rep. Lehman for bringing this language. When I saw this bill I got extremely excited. In addition to sitting on the insurance committee in Illinois I also sit on the consumer protection committee and this bill as written even with the objection of industry would pretty much fly out of the consumer protection committee because of the way it is written. We want more transparency. Policyholders deserve transparency. As Mr. O'Brien stated they want to know why something has happened. And I do believe that as an industry you



owe it to them to provide them with that why. They don't want to hear about complex algorithms or anything else. They just want a simple explanation and I believe that can be given to them. So thank you for this. If it does not precede you will see it in Illinois in a form probably something that you would not like. So it would be great if we could get uniform language as opposed to 50 different versions.

Sen. Lang thanked Rep. Lehman for all the work that you have done. I am in the insurance business as well. I own an agency that's a life and health agency and I know it's not the same as P&C but I also own a captive insurance company that's in the P&C world and it's a very narrow market we insure. So my experience is not similar to Rep. Lehman's but in my experience a client that gets declined pretty much knows the reason why they've been declined. I would like to follow up on Sen. Hackett's comments about a cost increase. We know this will add cost. We know this will add complexity to the system. My question from the industry is - are there any estimates on what it would cost on a per individual basis across the board? And are there any estimates what it would cost the industry if all 50 states were to adopt this on an aggregate basis? And furthermore as it relates to that cost is it fair to assume that the insurance companies would eat that cost which would result in negative impact on them because of their fiduciary responsibility to their shareholders if they're a stock company or to their policyholders if there are mutual company, would it be fair to assume that whatever those increases are would be passed along in the form of increased premiums which would most likely have a negative impact on our nation's working class people more than just about anybody else?

Mr. Schnautz stated that I referenced early on the only cost estimate that I'm aware of that is related to something close to this were cost estimates that the industry did on the Washington regulation. In fairness I don't think you can take those numbers and apply them to this. I could give you some indication of what those were but I don't want to leave any impression that they are somehow transferable this. For large national companies those costs were generally in the tens of millions of dollars and for smaller companies in the single millions of dollars. The answer to where those costs are borne is insurance companies don't print money. Everything has to be paid for somehow through the available sources of revenue to the company. I think that's the best way I can answer that. But again to be fair the Washington regulation is different. We know this would cost something. We don't know specifically per policy or anything like that. Mr. Bissett stated that those are great questions and I think there's a few things to contemplate. The short answer is I don't know. But the things to potentially contemplate would be is this offset by savings that carriers are enjoying because of the complex modeling and the increased accuracy that would occur and one thing that might be worth exploring too would be what types if any of meaningful cost occur as a result of companies complying with the adverse action requirements under the credit scoring model from 20 years ago. There's probably data out there that we can look to. It would also be interesting to look at how and what costs there are if any on the banking industry as a result of their compliance with very similar requirements over the last few decades. Those would be things that we can perhaps explore and take a look at.

Del. Westfall stated that in 12 days I'll be an insurance agent for 43 years. I try to answer these questions daily. It is a problem but I just don't think we're there yet. I talked to a lot of insurance companies besides the ones I represent and they're not against this in my opinion but just want to get it a little better than what it is. If we pass it now as it is and we take it back to our states we would have to tweak. I would have to and I don't think I'd have the ability to really do it as well as the committee could do. I'm all for taking this next year and trying to pass it in West Virginia. I got a pretty good record of passing bills out of NCOIL. I do a lot of them. But I'm not comfortable with this one right now with the way it is. I think we need to work on it a little bit more. I think it's going in the right direction but I'd just like to see it tweaked a little bit more.

Sen. Robert Mills (LA) stated that for background, I'm strictly a consumer of insurance. My business background is that I'm a member of the Insurance Committee in the Louisiana Senate and we've talked about this exact issue for some time there and I was amazed to find out that there's over 100 external consumer data points that you can buy on an individual and in my mind as a consumer, if you ever said you don't know the answer I take it at that value and I say well, what are my options? I'm much more concerned as a consumer about having an option than I am with an explanation and particularly if the explanation's going to cost me money in my next policy. I apologize I don't know about the banking rules relative to something similar to this but I surely want to study that. That's going to take some time and I'm going to ask for some time on this as well. I live in probably the most litigious state in the nation and I know that if you put just two of these external data points out as to the reason that you were either giving an increase or a declination I've got thousands of lawyers just giggling at the idea of one by one knocking those off and we're going to be tied up in the courts every time with the lawyers in my state and I'm nervous as a cat about putting these external data points out in the public realm. I know that they exist. I can live with that. I just want to know what the rate is. Give me my options. Let's go forward. And so I would suggest we defer this.

Sen. Mary Felzkowski (WI) thanked Rep. Lehman for all his work but I have to respectfully decline on this. I've been an agent since 1985 and we do a lot of P&C. I do mainly commercial but home and life auto. You are literally asking companies to put out models that I agree are going to cause a whole lot of litigation. But also think of this. If an agent's putting a policy and it's getting declined it kind of means they are not doing their job to start. You know what you're underwriting guidelines are from your companies and if it's a tougher risk you should be having those conversations. So the declination of coverage I think should be out of there. In addition, we're one of the most highly regulated industries in the nation and when rate increases happen those rate increases are approved by the insurance department. And I'm just going to look at the one company I've got, there's 1,000 factors that go into the algorithms - everywhere from where you are to what are the weather patterns and far are you from your responding fire department? Credit score is a large part of it but there's other things that are part of it and I think the minute you start seeing that they're using X, Y and Z to rate, all of a sudden it's going to be which one is discriminatory and which one is not and this is bad and that's not and I just think we're going down the rabbit hole on this and we absolutely don't need to. And my final question is why? Is it so agents can say to you that your credit score dropped ten points? Or that the weather patterns are changing in Oklahoma and we're seeing much more damage in that area? So we're going to add the cost of doing this but what are the consumers actually going to do? Now I'm going to know why I'm being charged more and it's going to cost me more to know that. But we can't change weather patterns, we can't change a lot of other things. We have a robust insurance market in this nation. You can shop your insurance and find out if you can get a better deal with more coverage and through other people. I just think we're going down a rabbit hole and that doesn't need to happen.

Rep. Lehman thanked everyone for their comments and stated that the only push back I have on a couple of comments is when you mention about the departments already approved rates, they're saying we don't know how to approve these because we don't have the expertise to dig into these models. We just don't. And I think when you mentioned 100 data points, we're not talking 100 data points. We're talking 1,000 data points. In Indiana, I asked a very simple question - how many data points has a carrier asked to use and how many have you approved? They said we had a carrier that asked to use 1,400 data points and we approved about 620 of them. And I'm thinking which is more appalling, that there's 620 things about me that are driving my rate and some of it is as simple as you live in a tornado alley but what else is in there? Or is

it more appalling thinking about the 700+ that were denied. So when you talk about going down the rabbit hole, we're already in the rabbit hole. We went in that rabbit hole when all of sudden technology said I can put up a little box in your car and tell you how many times you stopped and turned left and you calculate your rate and everything else. So we're there. It's just going to be how do we craft this to be efficient, fair and transparent? This is my 37<sup>th</sup> NCOIL meeting. One thing I've learned in those 37 meetings is to get it right. So I want to get this right. I have already talked with our bill drafting people in Indiana. I'd like to work on a bill. I think it's that important. And I am asking for your help and I've got respect for everybody at that table because you've always been upfront with me and been fair with me and I look forward to finding that the answer of "I don't know" becoming "I can tell you why." And I think that's what we owe to our clients. And so with that Mr. Chairman, I am willing to hold this. I will look to see what we do in Indiana. By March it will have been through the IN House of Representatives so I think we'll have something that has been vetted by the committee, vetted by the industry, vetted by consumer groups, and vetted by those who really want to see some transparency. So with that I appreciate everyone's comments and I'm open to more discussion so please reach out to me but at this time Mr. Chairman I ask that we hold this until San Diego.

#### ANY OTHER BUSINESS

Rep. Brenda Carter (MI) stated that I'd just like to say that this past year I worked on a bill that deals with liability insurance requirements for firearm dealers. I think with everything that's going on recently surrounding that issue NOCIL should have some sessions regarding liability insurance and its relationship to firearms and firearm dealers. If anyone would like to speak to me about it please don't hesitate to reach out to me.

Hearing no other questions or comments, Rep. Rowland stated that it's been an honor to chair this committee for the past two years. I was looking around earlier and was impressed with the large number of legislators present today and I can remember the days when there might have been only ten or twelve of us in here so it's a testament to the way that this organization is growing and I wish you all the most success.

#### ADJOURNMENT

Hearing no further business, upon a motion made by Sen. Hackett and seconded by Rep. Lehman, the Committee adjourned at 4:30 p.m.