

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
PROPERTY & CASUALTY INSURANCE COMMITTEE
SAN DIEGO, CALIFORNIA
MARCH 11, 2023
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Property & Casualty Insurance Committee met at The Westin San Diego Gaslamp Hotel on Saturday, March 11, 2023 at 9:00 a.m.

Representative Edmond Jordan of Louisiana, Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Mark Johnson (AR)	Asm. Ken Blankenbush (NY)
Rep. Matt Lehman (IN)	Asm. Jarett Gandolfo (NY)
Rep. Rita Mayfield (IL)	Asw. Pam Hunter (NY)
Rep. Michael Sarge Pollock (KY)	Sen. Bob Hackett (OH)
Rep. Rachel Roberts (KY)	Rep. Brian Lampton (OH)
Sen. Roberts Mills (LA)	Rep. Forrest Bennett (OK)
Rep. Brenda Carter (MI)	Rep. Carl Anderson (SC)
Rep. Kevin Coleman (MI)	Rep. Jim Dunnigan (UT)
Sen. Lana Theis (MI)	Del. Steve Westfall (WV)
Sen. Michael Webber (MI)	
Sen. Paul Utke (MN)	

Other legislators present were:

Sen. Jesse Bjorkman (AK)	Rep. Zach Stephenson (MN)
Rep. Denise Ennett (AR)	Rep. Cameron Parker (MO)
Rep. Deborah Ferguson, DDS (AR)	Sen. Nellie Pou (NJ)
Sen. Ricky Hill (AR)	Rep. Tim Barhorst (OH)
Rep. Reginald Murdock (AR)	Rep. Mark Tedford (OK)
Rep. Rod Furniss (ID)	Sen. Jeremy Cooney (NY)
Sen. Win Stoller (IL)	Rep. Kirk White (VT)
Rep. David LeBoeuf (MA)	
Del. Nic Kipke (MD)	
Rep. Kelly Breen (MI)	
Sen. Mark Huizenga (MI)	
Rep. Mike McFall (MI)	

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. Bob Hackett (OH) and seconded by Sen. Paul Utke (MN), NCOIL Secretary, the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Rep. Rita Mayfield (IL) and seconded by Rep. Brenda Carter (MI), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's November 18, 2022 meeting in New Orleans, LA, and the Committee's February 17, 2023 interim Zoom meeting.

PRESENTATION ON IMPROVING NATURAL DISASTER RESILIENCY EFFORTS

Rep. Jordan stated that we'll start with a presentation on improving natural disaster resiliency efforts. Several states including my home state of Louisiana have enacted laws to encourage homeowners to take steps to strengthen their homes by providing them with insurance discounts if certain standards are met. The laws do vary in terms of methods of encouragement. Some states require the insurer to issue a premium discount if certain standards are met while others including my home state of Louisiana make the discount voluntary. Louisiana also has a program that grants homeowners funding to fortify their home's roofs to certain standards and I think that will be discussed today along with some other things to even strengthen that as well. You can view these different types of laws in your binders starting on page 200 as well as on the website and the app. I will say it's interesting that NCOIL did discuss several years ago a model law similar to Oklahoma's law but that proposal was ultimately withdrawn as a consensus could not be reached. But now with the unfortunate increase in natural disasters this is a very timely topic and I'm glad NCOIL is discussing it again. Before we go any further I'm going to turn things over to Rep. Jim Dunnigan (UT) who would like to make some brief remarks.

Rep. Dunnigan stated that I would just like to say that being from Utah which is a state that's seen an increasing amount of wildfires I'm very interested in the type of policies that you just discussed and I'm looking forward to seeing what other states are doing and learning from that. And I'd be interested perhaps in developing an NCOIL model law that adopts one of the state's approaches so that we can help the states throughout the country.

Roy Wright, President & CEO of the Insurance Institute for Business & Home Safety (IBHS), thanked the Committee for the opportunity to speak and stated that it's good to be back with Rep. Jordan again who was out to visit us at IBHS. IBHS is a 501(c)(3) non-profit that was designed and is funded by the insurance industry to really crash test buildings and understand how they perform. This is our facility in South Carolina where we have the ability to do everything at full scale and subject properties with winds up to category 4 level and see how things play out when you see roofs pop off of homes and the kind of devastation those conditions bring. We're the only place that can test against wildfire embers at full scale there at our facility and understand how that plays. We also have water intrusion pieces and again we take real events and play them in that space. We also do quite a bit of work on hail and how that is subjected on testing various materials that are put onto homes and structures. Not only is that done at the lab it's also done in the field where we deploy teams in severe convective storms looking at the impacts of hail. Obviously, that drives quite a bit of roof damage. We also deploy teams to see post event things on hurricanes and tornadoes as well as wildfires. Again it has to be that place where the science that can play out in the lab meets reality in the field. We have to keep building those bridges. Specifically, we were charged to address four specific hazards. Wind, rain, hail and wildfire. And so I mentioned earlier we somewhat casually say we crash test buildings, not

dissimilar to how the sister organization the Insurance Institute for Highway Safety (IHS) addresses crash testing cars. In order to do that it needs to be done at full scale and subjecting it to the kinds of things that mother nature uniquely can do.

Disasters and their impact continue to have a larger and larger impact on this. This billion dollar weather event, most of the billion dollars is attributed back to what is the insurable loss side of the equation that is then met by the uninsured public infrastructure pieces that the Federal Emergency Management Agency (FEMA) continues to pay for. For someone like myself this has really become a full employment kind of piece because we look at this and as Rep. Dunnigan was mentioning we see this all across the country. We see this with wildfires in the west. We see severe convective storms, tornadoes and other things that play across the Midwest and the East. We look at the impact of hurricanes that work not just the Gulf Coast but all the way up the East Coast. I'm going to turn to the particular pieces here in a moment related to individual elements and how those ultimately play into the insurance world but I want to start with one key element because there is a single piece of legislation that matters more than anything else related to resilience in the states of this country and it deals with how we approach building codes. These states that have adopted them fundamentally change the outcomes of disasters. So those more intense bright blue ones have statewide enforced codes. You have that dull kind of piece where they adopted an aspiration but they have no enforcement. It is simply guidance that is available. And then we have a set of states that have nothing. So you can find those bright blue places on the west coast of the U.S. along with Utah, New Mexico and we go up to Wisconsin. In the Gulf Coast we see Louisiana and Florida and then some pieces that play in the Mid-Atlantic. You say okay well that must be where the disasters play out. That's why they're focused on what does it mean to build to withstand what mother nature can send our way. So going back to 1950 here's your hurricanes, there's your tornadoes, there are your catastrophic wildfires. Unfortunately there is not a correlation between the places where we see these disasters play in the states that are leading by using the very simple straightforward science that goes into building codes.

So understanding that's the best answer we then need to turn to what do we do when we have the absence of strong modern codes and how we supplement that work and that really has become the piece that we have focused on to apply the science through a series of pieces that we have done at IBHS related to hail and the products that can withstand the higher end hail and what we do in high wind events and the places where that could be subjected to with the program we call Fortify and then on the wildfire side how we prepare for this piece. First on hail. Hail accounts for 60% to 80% of the losses that we see from severe thunderstorms across the country and so we have spent an incredible amount of time and effort working on this. This is not one that is actually a life safety hazard but clearly it drives more than \$10 billion in insurance claims in any given year. And so we go through and we study the very specific elements related to products that are there some of which are impact rated and say, "oh this will withstand what happens on the hail side of the equation." We were driven to this because there are a good number of states that have mandatory discounts tied to these hail related elements. I know you can't see all the details of this from across the room but I'll point to you that there are three different dimensions on the right side and the overall rating that sits there on the left. One gets an excellent green at the top and there were those that have the marginal and poor performances that are there which is to say they could not withstand the very things that they were being sold saying they would withstand. By publishing this we began to see changes in the marketplace. Products were pulled and no longer sold in distribution. New products were put into the marketplace. And so I show you the examples that are here where all but one of these products now meets the good side of the equation, simply shining the lights on it is there. But knowing that we're talking about the point by which direct price consideration needs to be put into

place. We must be careful. In this instance an impact rated product was the one that was highlighted. It says, if you do this well then there's going to be a price consideration. Except the product didn't actually do anything. At which point there's not an underwriting basis or an actuarial basis by which you can have that element.

I'm going to turn to the wind side. So, Fortified Home, this is a program that goes back really over the last 15 years. We don't have a lot of time this morning so I will look at some pieces. There are Fortified gold and silver elements that are done at the point of new construction which really says the entire structure will be able to withstand the winds that come, those category three hurricane winds that would come. We look at things related to doors and shutters and openings as well as how the entire building ties together but I want to focus this morning on fortified roof because it's the one element you can do from a retrofit perspective on an existing home and that's what's more broadly going to be available for folks. The Fortified roof has three elements that are required. The first one deals with how the boards underneath are nailed down with ring shank nails so that they will not rip up when the high winds come. Secondly you need to seal the roof deck. So for each one of those 4x8 wooden sheets that are there on a really bad day we are going to lose the shingles. At which point we have water. Water goes between those cracks and just fills up like bathtubs. When you go from a loss of roof cover to water intrusion we see the increase in claim severity go up three to five times. And then how do you lock in the edges so that you're less likely to see those pieces work. So how does this play? In Alabama it was Hurricane Ivan in 2004 that was the catalyst for so much of their change. Ivan, Dennis and Katrina had more than \$3 billion worth of loss and so advocates in the insurance community, local leaders as well as the state developed a program related to Fortified that plays in this space. It is multi-prong. I'm going to show you some contrast here in a moment. Yes there is pricing consideration that is in play. And the local building industry began to make this a default in everything they did in terms of new homes. The local counties adopted these pieces into code. And there was a grant program for those in greatest need.

Doing any one of those without the other would not produce the same outcome that we saw. So quickly look at the Alabama piece you go back to 2006 the lawmakers saw a path that is there. At first the discounts were just inside the wind side of the equation in 2008. You then begin to see those pieces play. You see some designation counts that were going. Habitat for Humanity did some initial work in this pace. And then it ended up in the coastal supplement for building code perspectives in 2012. It keeps moving and then in 2015 they added a grant program. Prior to that point there were mandated discounts if the action had taken place and there were still less than 500 designations. That grant program gets laid into place and you begin to see the movement that now works by which they are approaching 40,000 of these designations in Alabama. It was that collective sense that is there. I'll look just at the southeast on this. We'll look at that number. Then we'll come up here in a second here in terms of where Alabama is at 36,000 designations today. North Carolina has more than 6,000 and they're now some programs that are beginning. We'll hear from others in terms of work that is looking to see this advance in some other states. When we have those elements in place and they lean in we see that it collectively works. We'll keep showing you the Fortified house versus the kind of losses you would see in other dimensions. This one right here is a habitat home. This is in a moderate income neighborhood. This is right after Hurricane Sally. I was in a vehicle with a reporter and we're driving around and she said well which ones are Fortified roofs? I said I've color coded them for you.

Now this was early in COVID so we're all wearing masks at which point you can't quite read the faces of what's going on. She said, "what do you mean?" I said, "the ones with blue tarps are not Fortified." It was that clear. So it's not just a good idea that we talk about. We've then gone

and looked at the research in terms of in both North Carolina and Alabama how much difference does it make? We see claims reduction as well as severity in both the elements we saw in Sally as well as North Carolina which has actually seen four events come through on that side of the equation. It's not just for homeowners it can help renters as well. Fortified multi-family is really beginning to gain momentum in this space. We've been working with the Louisiana Office of Community Development. We're really encouraged to see how they are bringing both federal dollars and state pieces together. This program's just been around for a few months and we're already seeing the impact that it has. There are 313 families already in that space and another 2,400 families that are headed towards some pieces that are there. I want to look at this particular small development for multifamily. That was Lockport, Louisiana. It was just finishing up construction as Ida made a direct hit. The eye of the storm went over this community and as we watch these pieces, the highest end of the wind is 135 mph. Only one of those buildings experienced any damage and it lost a few pieces of siding. This was workforce housing. After the event this was the only viable workforce housing within 50 miles. It could withstand the event that is there. And I think this is what's so important we're not going to stop the disasters from coming through. The real key is can we limit its damage and make sure that after folks evacuate they have a place to go back home? When they go back home they go back to school, they go back to work and the economy can move through. This is not just in places like Louisiana, we're seeing it working in Iowa. We're seeing leadership coming out of the federal Home Loan Bank in Dallas and the Connecticut Housing Finance Authority has leaned into this space - it's requiring nudges coming from all of those elements.

Let's turn to wildfire. You look at the intensity that plays out now and we see what happens when a fire gets to one house and how it begins to move. This is in Colorado where we see these pieces play and we see the elements that we look at our facility about the kind of things that happen on the wildfire side of the equation. We're seeing more and more and more of these play out. Unlike other perils, wildfire risk is highly intertwined with those living near you. When a flood comes in it dissipates as it hits more structures. As a wind event comes through if your home is well built and mitigated there may be some debris that moves around but you can be strong while your neighbor is weak. In wildfire this is not true. The structure becomes more fuel. Once it burns it begins to promulgate and move. There's no other natural disasters by which when it hits the built environment it makes it worse the way that we see play in this place. And so it really requires a system of pieces. We need to incentivize individual homeowners to do the right things, and businesses. But you then have to make sure you're putting the nudges in place at the neighborhood as well as at the community scale. That is so true because you can perfectly mitigate your parcel and your next door neighbor who has excess material there that is welcoming to those embers well once they're burning if you're in a suburban context whatever you've done is insufficient. The fire is coming your way. Similar to Fortify, we've put the science behind wildfire into something we call the Wildfire Prepared home. There's two levels of it. There's the base and then the plus. At the base level of it you have to address the roof. It's the largest place that can accomplish those embers and again those embers regularly pick up and fly a half mile away from the place by which they originate. Occasionally we will see it go as far as two miles away. The good news is that most Americans have class A roofs already. The asphalt shingles like our class A roof and so we've already met that dimension. There's some building features including the vents that let you into the attic and the under crawl space. The biggest element is defensible space. Those areas closest to the structure. This has been work in combination with Cal Fire and the National Fire Protection Association as well as the National Institute of Standards and Technology (NIST) and others. Zone zero it's the five feet closest to your house. Nothing combustible. Think about the normal American landscaping and you put hedges and all kinds of bushes right up close to the house. Well in wildfire prone areas we need to move that stuff five feet away. We need leaning green five to 30 feet but the first five feet you

need to make sure that when the embers come and land they extinguish. They don't actually ignite the structure that is there. We have elements in place, California has some pieces they put in through regulation. The Wildfire Prepared designation is one way that folks can meet those as it gets implemented later on in 2023 and into 2024.

But it has to be collective in this space. So we go to a place like Paradise, California that experienced the catastrophic campfire and by catastrophic they lost 19,000 structures – 90% of the structures in that community were entirely destroyed. And they have leaned in that space and said okay as we rebuild we need to put the right code pieces in place to make sure that people can withstand what comes their way. So as I wrap up, I think that while insurers all approach pricing and underwriting differently certain basic principles underlie the insurance industry generally. One of them is that price follows risk. Generally speaking, as risk reduces so do the prices. And yet the converse is not also true. Risk does not necessarily follow the price. As we look at different regulatory and incentive programs around the country, discounts alone, whether they're mandatory or otherwise, are not sufficient to drive people to reduce their risk. Remember I showed you Georgia. The Georgia Underwriters Association offers a mitigation discount if they have Fortified designations. There is not a single designation in Georgia. Oklahoma requires discounts for Fortified designations without taking into consideration other policy measures to reduce risk. They're only 18 designations in the state. Some states require discounts for a whole laundry list of mitigation actions and this is really the worst outcome because it becomes a market intervention without verifiable risk reduction and frankly it confuses consumers because they look at a menu and go I'm going to choose two of these things and there's an artificiality that is brought there. We've got to make sure that that science hits that place and fundamentally do it in a way that reduces the risk and as that risk is reduced the price elements will follow. It's what we have seen in Alabama and looking at the program in Louisiana, they are following this kind of model that says it requires more than just one policy lever in order to accomplish the outcome.

Jim Donelon, Louisiana Insurance Commissioner, thanked the Committee for the opportunity to speak and stated that it's always a pleasure for me to have the opportunity to visit with NCOIL on behalf of my state and what we're about but also on behalf of the National Association of Insurance Commissioners (NAIC) where we had a breakfast with your leadership this morning that commented on the excellent relationship that has been built between the NAIC and NCOIL which I really think is beneficial to what I try to do back home. As you know Louisiana is the bullseye. My chief actuary says that on a per capita basis we have been hit by landfall by hurricanes over the past 100 years four times more than Florida and four times more than Texas though they have much larger coastal exposure than we do. As such we have unfortunately developed some expertise in this area and following our second worst hurricane event that hit our state, hurricane Ida a year and a half ago that generated 800,000 claims along with the year before hurricanes Laura, Delta and Zeta. That was over a 13-month period of time and a total of \$24 billion dollars in insured losses paid by private insurers as a result of those hurricanes. In our session last year with Rep. Jordan, Vice Chair of our House Insurance Committee, we did a number of band-aids as I refer to them to address lessons learned in the aftermath of particularly the most recent state of hurricanes. Hurricane Laura hit Lake Charles a year and a half ago with 150 mph winds and a year and a day later Hurricane Ida hit Port Fourchon in the center of our coast with similar 150 mph winds. The Weather Service said that those were the second most powerful hurricanes to ever hit Louisiana pointing to what I had never heard of before the Last Island Hurricane of 1856. I've asked how did they measure back in 1856 and it's by digging up residue from a hundred plus years ago. That was a category five hurricane - a category four is plenty bad enough. We don't have to corroborate what the Weather Service says happened 150 years ago but in the last year our department went to the legislature and with their cooperation

and frankly action we passed a handful of bills that I'd go like to go over with you quickly as part of my presentation.

We had Senate Bill 264 which Sen. Robert Mills (LA) was instrumental in helping us do without objection which we copied from the state of Florida because we had a spate of insolvencies in the aftermath of those two hurricane seasons. Three of the nine companies that failed were domiciled in our state and failed not because of Laura, Delta and Jada but because of Ida a year later. The next five were domiciled in Florida but had done a lot of property insurance business in other coastal states to include South Carolina, Louisiana and Texas and impacted us dramatically myself included as a policyholder from one of those Florida based companies for the past 10 years with a savings from that company on my home throughout that period of time of \$600 a month on identical coverage versus the big national company that I had been insured by until I switched to Southern Fidelity. But what we learned in the aftermath of those failures is that the number one reason for the failure was the ownership going cheap if you will and not buying adequate reinsurance for the book of business and exposure that they took on. Florida had picked up on that five years earlier and had raised their minimum capital and surplus from \$2 million to \$15 million and we last year raised ours from \$3 million to \$10 million. It's not going to solve the problem because typically those failed companies left behind for our guaranty fund \$100 million of unpaid claims that the taxpayers ultimately will pick up over the next 10 years but what we hope and expect that \$10 million of capital and surplus requirement will do is make those owners more conservative, more prudent, more cautious when they go to the reinsurance marketplace because we are dependent on those small regional carriers in fact my wife I remember 12 years ago when we switched from our national carrier to that small company, she tells me "well that's great Jim we're going to save \$600 a month but I never heard of Southern Fidelity. Are they okay?" And I responded to her nickname "give me a break moms, that's what I do everyday. I'm not about to buy a policy from a company I'm going to put out of business shortly." And her typical answer was "I guess not" and we made the change. The point being though that we with our exposure need the small regional carriers. For the most part the big national carriers have retreated from coastal exposure, not just in our state. I dare say in the aftermath of Katrina they probably more politely exited our state than they did others. There's some statutory aspects that impact that as well but our workforce, our population needs those small regional carriers and the only way they can take on that exposure - and 30 came to our state since Katrina and only three of ours failed out of those 30 - but the only way they can effectively take on that exposure is to reinsure themselves up to their chin for that risk.

And they do that and they for the most part do it successfully but those nine that failed last year had a common thread of inadequate reinsurance for the risk they took on. We think having \$10 million instead of what was actually \$5 million on the table when they go to the reinsurance market to protect themselves and their policyholders will result in them being more prudent in that aspect of their business. On January 1st, two months ago, our statewide building code adopted in the aftermath of hurricanes Katrina and Rita and it survived the legislative process because of then Governor Blanco putting up \$20 million of her Community Development Block Grant (CDBG) money for assisting the half of our parishes as we call them that did not have inspection services permitting services nor the money to start up those facilities in those parishes that didn't have a building code. And that money survived the attempt the next year to shoot a giant loophole into our new statewide building code adopted in a special session right after Katrina and Rita in 2005. That loophole said that if a contractor self-certified that he had built to the new statewide building code it was good to go and needless to say that would not have worked. We prevailed in a 105 member House by one vote in defeating that provision a year after we had adopted our statewide building code. The latest update was done January 1 of this year. It made up for pausing the every three year international building code standard update

required. Because of the pandemic our state had paused that update. They met on January 1 to provide for a second three year update requirement so they did both at the same time so that we are on schedule to maintain the standard of the international building code that we committed to when we passed our building code in 2005. That was a big benefit to our improvement. In fact, Fortified that Mr. Wright was talking about before, with the upgrade to our building code our building code is now 95% of the requirements of Fortified and that's a huge improvement to the insurability of our state.

Senate Bill 412 provided and recreated I should say the Louisiana incentive program offering grants to companies to come write business with requirements for the amount of writing, solvency requirements, monitoring requirements, the staying on the risk for a minimum of five years, doing 50% as a minimum in south Louisiana. And yesterday was the last day and I almost missed my part here yesterday because I was on the phone back home learning of the latest of the nine companies who have come to our state asking for \$61 million of grants which is limited to \$45 million by the appropriation that we got earlier this year in a special session. But that program was very instrumental in our recovery of our market after Katrina and Rita and will be again with this recreation of that program that has exceeded interest, it has exceeded even the monies that are available for the company's wanting to participate. Senate Bill 198 is what we've commonly referred to as our three adjuster rule and that one I copied from California who did it several years ago in the aftermath of wildfires where they were struggling with adjusters being churning and turning over as we experienced in the aftermath of Laura and the storms following it. At the third adjuster within a six month period of time the company is required to provide an update in writing or electronically to their policyholder of the status of their claim, provide a primary contact person to that policyholder and a summary of where their claim stands and what it's lacking in order to be successfully concluded. It has worked in California. Now they didn't have 800,000 claims as we did. Mr. Wright said 90,000 in Paradise which is a big event by anybody's standards but we think we can make this work hopefully without a pandemic to prevent churning of adjusters in the next sure to happen catastrophic event.

Senate Bill 163 requires specific disclosure for catastrophic claims process to include and we have adopted it frankly largely based upon what the National Flood Insurance Program (NFIP) provides when they are very helpful to consumers with a how to file and how to process a claim information booklet. And we have copied it and issued it to the companies to use in every homeowner's policy. So explaining things like the supplemental claims process which nobody knows about back in our state. Actual cash value versus replacement cost which very few know about back in our state. What is necessary to document a claim and how to file a complaint – 800,000 claims generated 8,000 formal complaints to our department over those four hurricane events. House Bill 521 is also a good lesson learned – it requires the companies to provide to us at the department before each year's hurricane season a catastrophic response plan to include the list of their contract adjusters that each of the companies has contracted with to adjust claims. These small companies reinsured up to their chins doing exposure on coastal states don't have the army of adjusters that the State Farms and Allstates have all across America to reassign to the aftermath of a disaster so we want to know how the small companies are preparing to handle catastrophic events and be able to compare what one is doing versus the others to know if in fact they do have adequate resources available. And of course the primary focus of this year's upcoming session, House Bill 612 created the Louisiana Fortified homes program to provide grants to homeowners who will either retrofit or build to the new Fortified standards. We're hoping to get to that 35,000 level like Alabama. This bill and regulation mirrors what is in place in Alabama which as Mr. Wright mentioned started in Baldwin and Mobile Counties and has now spread to Montgomery and Birmingham in the center of the state with over 35,000 homes built to that standard.

I'm also vice chair of the NAIC's Climate Risk and Resiliency Task Force which is also generating the technology workstream thereof which I'm the chair of and the pre-disaster mitigation work stream to educate and bring awareness to coverage gaps and pre-disaster mitigation measures and resources and incentivize insurer recognition of enhanced building codes in underwriting and rating. And lastly the NAIC Catastrophe Modeling Center of Excellence just hosted us Southeast Zone Commissioners in Miami at Florida International University, the home to the international Hurricane Center with cat-model instruction and presentations were made over a two-day period of time. That I will tell you is the best NAIC meeting and service that I have seen in my 16 years. It's really going to be helpful to not just Coastal States but earthquake States, Wildfires states and all catastrophes. The Center of Excellence will provide the resources necessary for us to be able to price and quantify the risk and the best approach to addressing those risks.

Sen. Ricky Hill (AR) stated I know it reduces the insurance cost but how much percentage wise does it increase the cost to build a project? Because I know there's got to be some cost increase and I want to see if I can live long enough to make that up. Cmsr. Donelon stated that's the key issue. Retrofitting requires a new roof. You have to take the old roof off and do a whole new roof and the issue in Alabama was initially do we just pay the \$2,500 or \$3,000 difference in a Fortified roof versus a typical roof or do we give a \$10,000 grant to incentivize folks to take the other roof off and replace it with Fortified which really the difference in a new roof is just \$3,000 but the cost of the total taking the roof off and putting it back as I did after Ida is about \$20,000 typically but the difference in new construction costs Mr. Wright correct me if I'm wrong is \$3,000. Mr. Wright replied yes and stated that I think that at the point of new construction these things tend to add only a 2% to 3% cost overall. On the retrofit side for the roof it has to be coincident with a replacement of the roof and the incremental piece they're allowing up to \$3,000 in the Alabama space and I think in Louisiana. We often see that the increment actually is less than that amount but it really is the price to put a new roof on that. It's a little more expensive in Louisiana than it might be in some other places depending on size of your roof.

Rep. Carl Anderson (SC) asked Cmsr. Donelon if he heard correctly that he took out a policy with Southern Fidelity? Cmsr. Donelon replied yes. Rep. Anderson stated that I'm in Georgetown in the low country and they dropped us in South Carolina. Cmsr. Donelon stated that they actually went insolvent. That's why you were dropped, me too. I had to revert back to my Army days and go back to USAA when Southern Fidelity failed.

Rep. Jordan stated that as someone who just recently visited IBHS, if you ever get an opportunity to take that tour in South Carolina and see the great work that they're doing you certainly should take that opportunity to do that. I think this issue is one that we're going to continue to discuss as resiliency is a big issue and we'll be discussing it at future NCOIL meetings.

PRESENTATION ON INSURANCE ISSUES RELATING TO CATALYTIC CONVERTER THEFT ADJOURNMENT

Rep. Jordan stated that we'll next hear a presentation on insurance issues relating to catalytic converter theft and I'll just note that I think this is an issue that's becoming very prevalent and I can tell you in Louisiana we've had lots of thefts of catalytic converters. I know it's going on just not there but across the country and hopefully we'll have a step forward with some model legislation for states to follow but for today we'll hear the presentation and determine how to best proceed.

Eric De Campos, Director of Strategy, Policy, and Gov't Affairs at the National Insurance Crime Bureau (NICB), thanked the committee for the opportunity to speak and stated that I'd like to begin by summarizing the threat. So we're talking about catalytic converters; they're exhaust emission control devices designed to reduce emissions. They're located underneath your vehicles and since 2019 we've seen thefts related to these devices skyrocket and there's both the consumer and insurer impact to this. For consumers it's a violation of their personal property and safety. It's a disruption of their daily life. It's a loss of their vehicle during the repair process. For insurers it's the cost of replacement. It's the repair costs associated with incidental damage done to the vehicles. These thieves are not exactly surgical when they're cutting these devices out from underneath your cars. But moving on to this it's important to look at what's driving these thefts and I'd like to begin by talking about the underlying impact of market forces. Specifically, the prices of precious metals. Catalytic converters have trace amounts of rhodium, platinum and palladium and since 2018 we've seen these prices increase and since COVID they skyrocketed. You can see the price of rhodium increased all the way up to over \$18,000 per ounce in 2021 and so market shocks cause disruptions in the supply chain which ultimately results in a used attached catalytic converter being worth several hundreds of dollars on secondary and black markets. And so what does that mean for thefts? Well since 2018 we're seeing thefts either double or quadruple every year from 2018 to 2022 and NICB is still working on data for 2022 but for Q1 and Q2 which we have so far, it already surpasses the halfway mark for 2021 and this is all based on claims data submitted to NICB from our member insurers. And also on the screen here you can see a bar graph outlining the top five states for catalytic converter thefts. We have California, Texas, Minnesota, North Carolina and Washington State and you'll notice that those theft numbers are pretty similar to what we're seeing at the national level. With increased thefts comes second order effects and what that means is violence that's inflicted on innocent consumers, bystanders. In fact there's a famous case out of Texas of an off-duty Harris County Sheriff's deputy who was killed trying to prevent a catalytic converter theft from happening at a shopping center and unfortunately when folks are at the wrong place at the wrong time or even if they decide to step in to prevent the theft from happening that can result in serious bodily harm, serious injury and unfortunately in certain cases in death as well.

There's also a financial impact, specifically to companies that have large commercial fleets. For example Amazon - if Amazon parks their delivery trucks in a concentrated area that makes for an easy target for catalytic converter thieves who can swoop in and steal multiple converters all within a short amount of time. We're also seeing thieves becoming more organized with criminal rings stretching multiple states. In fact there's a case that the Department of Justice (DOJ) is looking on forfeitures of over half a billion dollars related to a criminal ring stretching from California to New Jersey and it includes states listed in that top five list that I previously mentioned. So how are states responding to this? Well before 2020 35 states already had some form of laws in the books for scrap metal and that's because scrap metal yards, recyclers, processors they're usually the ones who purchased used detached catalytic converters because they have the capability to extract those precious metals and recycle them into new products. In 2019 we started seeing an uptick in legislation being introduced that was focused specifically on catalytic converter thefts. So you've got just a summary here of increased metal prices, increase thefts and now we're seeing more bills being introduced to address this threat. From 2020 we saw 12 bills introduced in 2021 that's skyrocketed to 64 and then that doubled again in 2022 and when we're looking at the bills being introduced there are four themes here. One is scrap yard regulations so some examples of that are prohibiting cash transactions or making sure that transactions take place at a fixed business location. Another is buyer and seller restrictions so we're specifying who can buy and sell used attached catalytic converters. In some states that's restricted to regulated entities and in others you and me can sell used detached catalytic converters as long as we have the documentation to show that we lawfully owned that device.

The third theme here is a presumption of guilt. That is something that we've seen introduced in a couple of jurisdictions. What that means is if I'm driving around with 10 catalytic converters in my trunk and I don't have documentation to show that I own them it can be presumed that their stolen. This is a tool for law enforcement to help stem the rise of catalytic converter thefts. And then finally and perhaps most importantly, there are new criminal statutes. Unfortunately, catalytic converter theft generally falls under a state's theft statutes which are tied to the dollar amount of the item that's stolen. Well that doesn't account for the total loss for a catalytic converter theft and as I mentioned earlier that includes the replacement costs, the incidental damage, the threat to consumers - the cost that insurers have to face. A new criminal statute would provide and account for the total loss associated with a catalytic converter theft. So, NICB has been lobbying on this issue for several years now. We've lobbied on 55 bills and then we've seen 26 of them enacted. We've actually had the opportunity to work on some bill language with some sponsors and some jurisdictions and just to give you an example of some of the bills that were recently enacted in the last couple of years. Senate Bill 70 in Louisiana is a good example of a bill that established a new criminal statute for catalytic converter thefts. In Mississippi we have regulations on transactions for the purchasing and sale. And in Kentucky and Texas bills were enacted that established record-keeping requirements for catalytic converter transactions. And this is important because it increases the paper trail and helps law enforcement with their investigations of thefts. So as we move on to 2023 I want to quickly show that QR code you can scan that you'll see the list of bills that NICB is tracking and engaging on for catalytic converter legislation introduced this year. And so far we're looking at 74 bills introduced. And then there's a map there that shows the jurisdictions where they're being filed. I'm also happy to follow up after this with that QR code if folks have a hard time scanning that.

And just a couple examples of some bills that we're seeing introduced, Senate Bill 60 in Georgia is a good example of a bill that establishes registration requirements for purchasing catalytic converters. It prohibits cash transactions and establishes those record keeping requirements. We actually testified in person in Georgia in support of this bill. And then in Virginia we have Senate Bill 1135. This is a great example of a bill that raises criminal penalties up to a felony for a catalytic converter theft and then you'll also notice that presumption of guilt provision in there as well. So we're seeing all this legislation introduced at the state level. I'm happy to say that there's also legislation introduced at the federal level. NICB worked with Congressman Jim Baird on introducing the Preventing Auto Recycling Theft (PART) Act in 2022. We also had the opportunity to work with stakeholders and in other industries and you'll notice three themes. Some of them should sound familiar for what we're seeing at the state level. Strengthening criminal laws and penalties, regulating catalytic converter purchases, and also this third item of vehicle identification number (VIN) stamping. And what the federal bill does is it introduces a VIN stamping grant program to incentivize folks to bring in their vehicles so that way we can etch a serial number or VIN number on their catalytic converters and that does a couple of things. One, it deters criminals because now you have a catalytic converter that can be more easily tracked and flagged when they're trying to be sold on a secondary market. And then in addition to that it also provides law enforcement with yet again more information to be able to not only investigate these thefts but also potentially even recover the stolen items.

NICB is also working on model legislation on catalytic converter theft and we're using some of the provisions that we're seeing at the state and federal level to establish a model bill that we're hoping to be able to have a more extended conversation in the near future on. But the four themes of this model bill that we're working on is: establishing a new criminal statute so finally making it a separate crime in statute; buyer and seller regulations - I won't rehash some of the themes but one additional example in there is establishing a holding period for a catalytic converter transaction so holding the consideration or the payment for that transaction for a few

days and that's designed to deter those petty crooks from trying to make a quick buck off of a stolen catalytic converter; increased criminal penalties - so elevating these up to at least a felony and associated fines in terms of imprisonment; and the VIN stamping program - establishing entities like local law enforcement agencies to be able to host these VIN stamping events and encouraging folks to get out there and get your catalytic converter stamped.

Rep. Rita Mayfield (IL) stated that as you know we did pass legislation on this in Illinois but I did have a question on your VIN stamping program. You know how we feel in Illinois about doing grants. I need a line item to help do that. But why couldn't the manufacturer just automatically stamp that VIN on there when they're building the car? Mr. De Campos stated that we've had conversations with manufacturers and this topic did come up during discussions for the federal legislation but right now we want to focus it as a state issue and working it on encouraging folks to be able to work with their local law enforcement agencies and other stakeholders within the states to have their vehicles brought in and stamped at that point. So essentially making it a choice for them. Rep. Mayfield asked what is the approximate cost per vehicle to have that done? Mr. De Campos stated that is an excellent question and I'm happy to follow up with you after this in order to provide that information.

Rep. Tim Barhorst (OH) asked what the results have been in states that have enacted these types of laws. Mr. De Campos stated that it's still very early but and there's a lot of variation that we're seeing state by state. However, what we are seeing is increased deterrence. What we are seeing is improvement in tools that are available to law enforcement and prosecutors to be able to try these theft cases. We're also seeing a lot of activity coming on with combating organized criminal rings as you've seen or as you may have seen on those slides with what we're seeing not only at the DOJ but also at the state level as well. So we're starting to see some results and there's a lot more to come as well, especially when we can start establishing some more uniform guidelines on the legislation and providing the necessary tools that we need to combat this issue.

Rep. Jordan thanked Mr. De Campos and stated that these are issues that will continue to be discussed in the future. If you have any questions, certainly you can reach out to me or to NCOIL staff and we'll be happy to try to answer them for you.

DISCUSSION AND CONSIDERATION OF NCOIL INSURANCE UNDERWRITING TRANSPARENCY MODEL ACT

Rep. Jordan stated that last on our agenda today is the consideration of the NCOIL Insurance Underwriting Transparency Model Act (Model), sponsored by Rep. Matt Lehman (IN), NCOIL Immediate Past President. As you likely know, Rep. Lehman has been working very hard on this and has been working up until this very moment on this issue and I think we're finally at a point now where the model is ready for a vote. You can see the model on the website and the app and your binders on page 196. Before we hear from our speakers today, I'm going to turn it over to Rep. Lehman for comments.

Rep. Lehman stated that I'm not going to go through the whole path that this thing has taken but I will say this on a point of kind of personal privilege here, in looking around this table and seeing a lot of new faces I think that is a fantastic advancement for NCOIL. So I do want to for those who have not been a part of this process just to give you a brief background. This was an issue that first presented itself probably the last five to six years where we began to see more and more insurance companies moving to artificial intelligence (AI) and moving to new models of writing insurance. I had a bill actually in Indiana back in 2022 and we pulled that bill and brought it to NCOIL and worked on that through 2022 and then in New Orleans this past November we said

let's try to find a solution. We filled a bill in Indiana and that became the new NCOIL model. There are some changes I'm going to walk through briefly but I will say that I think that what we've been hearing over the last several years and what we've been seeing at NCOIL has been that this is not a fad. This is not a trend. I refer to it kind of as this is the new motor vehicle record (MVR). This is the new comprehensive loss underwriting exchange (CLUE). This is a new credit model. This is here to stay. And I think NCOIL needs to be the leader on getting our hands around the use of AI and data. I said when I was in leadership at NCOIL that NCOIL's focus is to build the foundations. We do not narrow this down to the exact language every state should pass. We build a good foundation and let the states add the trim and the color of the walls etc. So, I'm going to walk you through a little bit some key changes on this model from the time we started. I'm going to walk you through that and I do have a couple of things I would like to add to this as an amendment and I'll cite those as I go through this.

Since the last time we met we have removed declinations from the scope of the model. We are saying that this applies to any homeowner or auto insurance policy that's currently enforced at a renewal, etc. We changed "adverse action" to "material change" which that sounds generic but it really is more of the true thing and that is you're actually changing my policy. It can't be interpreted as an adverse action but it's really more of a material change. There was some concern on a couple of pieces that you might hear from the panelists dealing with non-renewal or cancellation or reductions in coverage because currently in Indiana and other states there are restrictions around what you have to disclose for non-renewal and cancellation. One of the things we want to be very clear of is we don't want to be duplicative so we did put into here language on the Federal Fair Credit Reporting Act saying if you're already indicating someone for that you don't have to do this as well. That may be in your state an issue around reduction or non-renewal and again I'm going to leave it in the model because I do think that's something that you need to look at your state on a piece by piece basis so I'm going to leave it in there for now. Next, regarding the terms that the model does not include, we put a list together over time, things like if it's insured initiated. If I increase my coverage they're going to actually increase my premium more than the filed rates of this in the state, then you do not have to disclose that. One thing I'd want to have some discussion around and at this time I didn't put it in the model - I think there needs to be some discussion around a lot of companies are doing homeowner inspections. We just saw a great presentation on Fortified and if they come out and they make changes to their policy based on those inspections then I don't think this would apply. The concern I think I've heard from some is companies can come out on a regular basis and continue to make changes and stay underneath that percentage. So at the present time I think it's something you can discuss back in your states. It could be an annual inspection type of thing, maybe that would work versus I can do 20 inspections and change every time and not hit that level. So that was a concern and I think it's something we can discuss.

There are a couple of drafting notes in the Definitions section, one on the application of declinations. As you know we talked in New Orleans and there were some who felt like it really should belong in there. I'm modeling this more or less on what we were able to be successful with in Indiana and Indiana that was not something we're going to be successful with. So it's not in the model but again that is something that I think you can take up with your state. On the transparency requirements, we do say that you shall provide a written notice to the insured and explain the principal factors and if you want more information then they can provide you with a written request and you can see the data in front of you. One change I would like to make on this relates to notification to a producer and I would like to add that such notification may be provided to the producer via the insurer's portal for producer communications. I'm an insurance agent and a lot of us get our data not through so much an email or mail but we get it through our portal that we get updated every day. Next, section 5(f) relates to requirements for the written

notice that explains the material change and what you have to do is you must be sufficiently clear to the insured and use language sufficiently specific indicating things and you must include a description of the principal factors most heavily weighed. This model from the time we began has hinged on that sentence. We've gone from five points to ten points to different numbers of data. I think what we've ended up with is your state can set a number you want to set but for the sake of the model I think we're focusing on the most heavily weighed. We want to know what's moving the needle. So the key portion of that is the principal factors most heavily weighed.

And one other thing I'd like to change is an amendment in section 5(f). Currently, it says that the written notice "may" provide a point of contact. We want to be very clear that you "must" provide a point of contact so if I send you that written notice there has to be some data on there as to how I can contact you. I think that was always the intent but I think it needs to be clear that you must have that point of contact on that. So I would like to change that from a "may" to a "must." Again, from a drafting note standpoint we have in here that in your state you can look at whether there should be a specific number of principal factors disclosed but again the key here has always been those most heavily weighed. For the rest of the model we put some provisions around the Commissioner being able to set rules in this space and then an effective date can be when you feel like your state can implement this with some of the changes to those data models. The goal when we started this has always been and I think I started the presentation two years ago with, I have to have a reason and I can't keep telling my clients "I don't know." As a professional agent when people say, "why did my rate change by 14%?" - I can't say, "I don't know." I think this model starts us down that path. This is good transparency and sets that foundation. And the public wants transparency. With lack of transparency comes mistrust. And so I think as we talked yesterday about what's happening with personal data, we're on the cusp of a lot of things around gathering, collecting, holding and the use of personal data. I think this starts us in that narrow vein of insurance and I'd be happy to answer questions and would ask your support of this model.

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 this has been a long and painstaking process and this document here represents a compromise and there are some things in here that frankly our business people are going to find challenging to put in place. There are some things here which are probably good public policy. But I think at the end of the day one of the things that Rep. Lehman has pointed out is that this is a beginning. We are starting to get our arms around this whole transparency issue. Getting our arms around different expectations. Some of the amendments that Rep. Lehman has suggested we think are good ones. We still have remaining concerns with some of the language in this proposal but on the other hand one of the things I can say is that it has been an exhausting two year effort on the part of the interaction and there have been a lot of different viewpoints expressed. A lot of different changes have been made. We appreciate the interaction that we have had with Rep. Lehman and with others who have had different points of view. This is probably about as good as it's going to get. So with that I know that there are other issues and other concerns. And I think I'll leave my comments at that and we'll move forward as the discussion goes.

Jon Schnautz, Ass't VP of State Affairs at the National Association of Mutual Insurance Companies (NAMIC) thanked the Committee for the opportunity to speak and stated that back at the November meeting in New Orleans we had three major issues at that point that let us to oppose the model. I'm happy to report that two of those have been addressed fully and that this model I think is safe to say from our perspective is much better than it was at any earlier stage. The position I think we find ourselves in today given the significant changes that have been made and the understandable desire by Rep. Lehman to move forward on this is that we do not

oppose NCOIL's adoption of the model. I do also think that as this goes forward and we see how this fits into the web of existing state laws that are out there on the subject, we might find ourselves even in a position to support some version of this concept. I will briefly touch on a couple reasons why we don't find ourselves in the position to endorse it today. First, I mentioned we have three issues and that two of them had been resolved. The math suggests there's one remaining and that is the language around the disclosure itself, what actually has to be disclosed. On that issue the language that NAMIC's members preferred was based on something taken from the NCOIL Model Act Regarding the Use of Credit Information in Personal Insurance. As Rep. Lehman alluded to some of that language was taken but the other language that was in the earlier version of the model, minus the specific number of factors, is also still in the model and our members remain much more comfortable with the credit model framework for reasons I can go into if there are questions on that point.

Second, the experience since November I think, at least for me, has been instructive in terms of what state laws are already out there on this subject. Rep. Lehman alluded to the existing Indiana law. I think that issue is going to be addressed in Indiana and the issue here for us is one of the points for example on the Fair Credit Reporting Act provision that we have tried to make from the beginning is avoiding, I don't want to say duplicative notice because if it was truly duplicative you could just say, "okay well you have to give the same notice twice", is that really that big of a deal? It's really overlapping notices that say different things, that require different things that we do not want in any state law anywhere frankly. I think that's going to be fixed in the bill in Indiana and we appreciate that. The approach that the model takes though as we read it is sort of a layering approach. It basically says if there's existing law on this this goes on top of that and both apply and from our perspective that is still problematic. Briefly I will say in my home state of Texas I will bashfully admit I didn't know this in November, but I've since found out we have an existing notice and have to give a reason requirement on request for cancellations and non-renewals already. If this bill was introduced there I think we would be suggesting amending that statute or trying to align the two but not just putting one on top of the other.

And finally, sort of along the lines of that same point, back in November I think the very first thing I said to the committee was that our main concern was value. It's not that this isn't doable, at least for large companies. It's what is the value balance of doing it? What's the value of the policyholder versus the cost to the company which is ultimately going to be borne by all policyholders? I will say I think without betraying any secrets the industry right now as a whole is extremely sensitive to cost increases, perhaps historically so. To give one example there's a bill set for hearing in Texas next week. It's one of my ex-boss's bills so that's always interesting but I'm going to oppose it and all the bill does is increase the non-renewal notice time frame. Not reasons, just the time frame. That sounds very simple. I can explain why it's more complicated than it sounds if you'd like. It's good practice for the hearing next week. But even something as simple as that is a concern to our members. I know from the feedback I've received from them. And this model for all its virtues is exponentially more complicated than that. So I think that just provides some context to where we are. To end on I think a hopeful note, I do want to say we are really grateful for what Rep. Lehman has done to this model. It is in a lot better shape and I think as Mr. O'Brien alluded to and as Rep. Lehman did too, this is probably not the end of anything. This is probably part of an ongoing conversation and we intend to remain part of it.

Wes Bissett, Senior Counsel of Gov't Affairs for the Independent Insurance Agents and Brokers of America (IIABA) thanked the Committee for the opportunity to speak and stated that I think you said it and summed it up perfectly a few minutes ago when you said that this proposal is ready for a vote. And in the strongest possible terms when you come to vote we hope that vote will be a yes vote. I'd like to make four points with regard to this proposal. First, in our view

there is a clear and overdue need for this and value in doing this. As Rep. Lehman said the underwriting process in personal lines in recent years has become increasingly complex. Insurers are using new types of data, complex models, analytics in ways that they've never done before. And those innovations are positive but one of the consequences of that is that the rating process is far less intuitive than it used to be. Not that long ago it was pretty simple. If you had a spate of recent accidents you could expect your rates to go up. If you added a teen driver to your auto policy you could expect your rates to go up. But what we see today is that large increases are oftentimes counterintuitive. Consumers don't understand why they've had a 15% increase and their agents can't explain it to them. And oftentimes when those agents go to the companies asking for an explanation, the company contacts that they have can't explain those either and that's a frustrating outcome and respectfully not a good thing either. So all this model does at the end of the day and it's not complex and it doesn't impose a lot of costs on companies, it merely requires companies to say to the consumer if you have questions about a significant rate increase you have the ability to ask for more basic information about that. That's all it does. There's also a need for this because individual states and the NAIC are beginning to act in this space and some of those proposals are going far beyond this proposal that you have before you today and some of the proposals are very troublesome and frankly unreasonable. What we believe should happen is that there ought to be a thoughtful pragmatic solution to this issue that's frankly legislative based. We don't need unilateral regulator action in this area and I think the balance that's been achieved here is the appropriate one and one that ought to be acted on.

Secondly, I'd say that this proposal is very reasonable. It does strike a balance. There's nothing draconian in here or unreasonable. It simply brings some basic transparency to the process if you actually ask for it. In most cases consumers probably won't ask for it and so there's not this significant cost that maybe some have suggested. It only applies if you're non-renewed or if you get an individualized 10% rate increase or more and not even 10% total, 10% above the base rate increase that would apply in a particular state. And there's lots of reasons why this is important and why there's value in this. Consumers ought to have a basic understanding of why their rates have increased especially if that's a dramatic rate increase. And this would give them the ability to rectify any mistakes in the information that was used if it was incorrect or incomplete so they can act to improve those outcomes. And frankly it helps restore faith and trust in the insurance rate making process, something that there are increasingly questions about today. This would hopefully restore that faith and trust. I appreciate the work that's gone into making this a reasonable and tailored proposal. Third, I'd say this is also not a novel or new concept - in the banking context for many years federal law in the form of the Equal Credit Opportunity Act and regulation B has had a framework exactly like this. If you get denied a loan or a loan changes you have the ability to request this exact type of information. So there's a clear Federal banking parallel. There's also an insurance parallel - when insurers began using credit information 20 years ago NCOIL adopted a comprehensive credit model and one of the things in that said if there is an adverse action taken you can get information about the reasons for that. So in the banking context you can get this information. If insurers take an adverse action based on credit information you can get sort of basic information about the reasons why. And all this does is kind of bring things up to date given the new underwriting factors that exist. Finally, I'll say even if you don't intend to bring this back to your state we would still urge you to offer a yes vote today. There is significant and sufficient interest among many states in this and we need a thoughtful pragmatic narrowly tailored legislative based response for those policymakers that want to address this issue in their state. So again I appreciate the hard work that Rep. Lehman, the NCOIL staff, and my industry colleagues have put into this and strongly urge you to provide a yes vote today.

Robert Herrell, Executive Director of the Consumer Federation of California (CFC), thanked the Committee for the opportunity to speak and stated that I'll be speaking this afternoon on a couple of items as well. I know one of the things that NCOIL tries to do is bring in some local regional folks so let me just spend about 30 seconds on a little bit of California context and then I'll pivot directly to the model in front of us. In California you have prior approval in the auto context and in the homeowners context. That's important. That's a major consumer reform that happened in 1988. There's a much longer story behind that, five initiatives on the same ballot at the same time and the only one that was successful was the one that added that prior approval and also reduced rates in some cases. So there's a long history. There's been work done by other organizations about the savings to consumers pursuant to that. So that's part of the context. Secondly, to get a little more specific and I appreciate at the beginning of this session talking about some of the natural disasters and some of the work that has been done in Louisiana and elsewhere, California will face earthquakes which is obviously a different type of insurance. We just recently had a very wet winter, we faced a blizzard notification which is exceedingly rare in California and you've had some roofs collapse for example because of the weight of snow and things like that. Things that are not very common especially since we have been in a multi-year drought and are now maybe just getting out of it. But the other thing I want to point out is in 2018 when I worked for the California Department of Insurance, I worked there for almost six years is a Deputy Commissioner, we sponsored a bill authored by then state Senator Ricardo Lara, now California's insurance Commissioner, that was very important and it allowed the Commissioner the authority after you have for example wildfires or some other disaster, particularly it's been used in the wildfire context, to identify by ZIP codes areas in which the insurers are not allowed for a year to decline or to non-renew. That important buffer zone has been really critical when you think about the context of disasters especially out here in California where you've had a lot of wildfires. Paradise came up earlier and that whole town basically was decimated.

So that context I think is relevant to then pivoting to what Rep. Lehman is trying to do here with this model. I'll be brief and pivot to some additional thoughts. In the model that is available, and I have not been involved in a lengthy period of time in this so I come in at this relatively new and I appreciate Rep. Lehman's modifications with agent notification and things like that, there are some drafting notes. And generally speaking I think the view of CFC and the view of other consumer organizations would be give consumers actionable understandable information when something happens. I think that's such a foundational principle here that ought to underly everything that we do in this area. For example, one of the cost limitations is that a lot of people won't ask for the explanation. I would add declinations to the scope of the model. I know that's an issue that has come up in some of the debate. I would add that. Tell me why. Give consumers the information that they are so desperately seeking so they can understand and act on it. I just think that's so fundamental to what we ought to be doing here. So the drafting notes I think are very helpful. This is a good first step don't get me wrong but I do think that what I sort of heard reading between the lines a little bit is that the insurance industry and your state reserves the right to oppose any bill that you propose in this area and may do so depending on what's going on. So you'll have to obviously fight those battles within your respective state legislatures and work with your respective Commissioners. Also, make the explanation automatic. Don't force the consumer to have to ask. And this says in writing. Make it easy for them such as a hyperlink or a form that they can just fill out to find out. Or better yet, tell them. Tell them what you know. In California we dealt with FireLine scores and things like that where some companies just automatically if the numbers the wrong number you get declined with no explanation. We had literally state legislators get denied and they couldn't find out. Legislators who were insurance agents. So, the principal factors I think is important to be included in your respective states. Try to get more information out there. The retroactivity really isn't an issue here because these are policies that renew every six months or a year so pretty quickly you get

everyone up to speed. I'm happy to answer any questions but that's our general sense – a good step in the right direction but try to strengthen it so that consumers understand what's going on. Give them actionable, reasonable, understandable information.

Asw. Pam Hunter (NY), NCOIL Treasurer, stated that she doesn't necessarily have a question but rather a comment. I know we've been having this conversation for several years and regarding Mr. Herrell's comments, I do think that it is important to bring it back to the consumer level. I think a written request is something outside the scope of what many of my constituents would be doing quite honestly. I do think that we've come a long way in this conversation for the past couple years and I appreciate the work. I think that if we were to bring this back to New York with this model we would probably be adding a lot more stuff in there relative to not making it so difficult for a consumer to have to get that information. Insurance is very confusing and complex to many folks and being able to I think use actionable and understandable information is important and I think that's something that we need to make sure that we are incorporating. So I appreciate those comments.

Rep. Jim Dunnigan (UT) stated that he had a question for Mr. Schnautz – Mr. Bissett mentions that the model really doesn't require you to do much if the consumer doesn't ask for it. So what is your concern? I understand the concern about expenses but do you see it that it does require you to do stuff if the consumer doesn't ask for it? Mr. Schnautz stated that the model goes two ways on that. The company can just provide the reason without waiting for a request or it can wait for a request. So it is true that the company could just say well if we don't get requests we're not going to respond to them. From a company management perspective though they have to be prepared to do it. They have to have a process to do it so they could do that two ways. They could say well it's too expensive and our IT Department says it'll cost however many dollars we're just going to do it manually for requests. That's a little bit dicey because you don't know how many you're going to get and any manual process is going to take a lot of time to comply with. So they're going to have a choice there. Do they program it or do they take a chance that they don't get that many requests? But either way there are issues to deal with there. It's not just oh well it's on request maybe we won't get any. You have to be prepared to comply with the law if and when you get requests.

Rep. Dunnigan thanked Rep. Lehman for his work on this and stated that it seems that one of the concerns is the disclosure not following the credit models. Is there a reason that you didn't follow the credit model disclosure and went down a little bit of a different path? Rep. Lehman stated that I think a lot of that was I think the credit model, if you look at what that's based on it's on one factor. There's many factors that go into a credit model but it's purely around using that piece of credit as the factor. What we're seeing here is they're using multiple data points and so they could be using social media data, they can be using buying habits, obviously they'd be using driving habits. They formulate all that into what we call the black box you might say and what we're looking at is where the credit model might take in pieces of data it sends out one piece. This is sending out multiple pieces of that data which is why we started with a number of factors because we want to make sure people are clear as to what's driving this, what's making this change? Because another thing is we want people to be able to correct inaccurate data so if I know what's driving this and you're more specific to those principal factors I can maybe address those changes. That's why we didn't just mirror it exactly. We actually went to be a little bit broader. Rep. Dunnigan asked Rep. Lehman to speak to layering - what if a state already has something on this. It doesn't sound like there's an exemption in the model for if it's already being done or something similar is being done. Are you concerned about layering? Rep. Lehman replied yes and stated that I think that's why you have to go state to state. I think the issue around even non-renewals and cancellations, as Mr. Schnautz stated he was surprised that

Texas has that. Well Indiana has had it for decades, requiring the if you send a non-renewal notice you have to be specific as to why you are non-renewing. You have to be specific to why you're canceling. Cancellations are very thin and that is usually non-payment or a material change in your exposure whereas non renewal can be from multiple reasons. And so it's still in here because I think if you don't address that in your state you need to. You can do it through this or you can do it through other sections of your code. So I think that from a duplicative standpoint, what we don't want to do is if I have to notify you because of one factor, it's clear why I'm doing this and it's under the credit scoring issue or under a non-renewal issue. If I'm already being very clear why I'm doing that I've got to send that notice out. Then you don't need to comply with this section of that code as well. So it would not be sending out two notices.

Sen. Lana Theis (MI) thanked everyone for their comments and stated that coming from Michigan where this particular market has gone through some dramatic turbulence of late, I'm concerned about injecting yet one more aspect into the equation that is going to be something that insurers are going to end up having to try to figure out beyond all of the stuff with the changes that we made legislatively and with the court cases that are still up in the air. Has anybody done the math on what this might actually end up costing our insurers? Mr. O'Brien stated that I'm going to try to answer your question but I'm also going to go beyond that just a little bit. This is going to be expensive to implement and there are going to be significant operational hurdles and that will obviously have to be put into the legislative mix as this model or something based on it is put before the legislature. I'm going to borrow Mr. Herrell's words, this was a very thoughtful and engaged process and there was a lot of consideration that went into various things. We came to a place where we thought we're trying to put in place something that will provide consumers with actionable information that they can use regarding their insurance policies and perhaps change things or do things differently in order to impact their rate. We're trying to also balance that with as I mentioned the very significant expense and operational concerns in terms of putting this in place. There was a debate concerning whether to have this as an automatic type of thing that gets sent out to everybody. In some ways, for some companies, that might be easier for them to accomplish in their systems. But on the other hand after all the other notices it becomes white noise. So some of the drafting decisions in some of the policies in here after extensive discussion reflect some policy choices that you could make a credible argument for the other way around as well. For example going back to Rep. Lehman's amendment that was put in place just a few minutes ago concerning inspections. You can make an argument about inspections and the impact that an inspection is going to have and there could be something that would result from that inspection. So is there really a need to have a notice? Maybe yes, maybe no. I can tell you it's not going to be cost effective for any company to do multiple inspections on a property during the course of a year or a lot of companies will do it every couple of years, stuff like that. So at the end of the day this is a compromise with a capital C. There's a lot in here that we could live with, there's a lot of things that we think are going to be challenging for us. Similarly, from the consumer protection point of view you could go completely the other way but we're trying to thread the needle on a practical solution.

Mr. Herrell stated that insurers know when and why you're denied or non-renewed. So I think the cost will be a lot less than sometimes the sky is falling things that you sometimes hear. That's not to say that there won't be any cost. I'm neither naïve nor unsympathetic about that. The other thing I would just note and I don't mean this in a disrespectful way, carved out of this is anything that relates to an increase in the insurer's filed rate plan. Now most states don't have prior approval so the insurer's filed rate plan once it's finalized and is in place, that's exempted. You've just exempted out probably a big chunk of the people who should get this information and would want and need this information. I find it ironic that insurers are using a lot of big data and AI as Rep. Lehman mentioned and the files on consumers are extensive and to be candid a little

bit scary but when they're asked to tell you something that you could actually take action upon as a consumer all of a sudden it's oh my God we can't do that or it's going to be too expensive. So I would like to just put that in some perspective.

Sen. Theis asked for any of the states that have implemented this, has there been any legal liability where the consumer disagreed with what it was that the insurer was informing them of and then turned around and sued as a result? Mr. Herrell stated that I think that would depend on whether you're in a mandatory issue situation or not. Off the top of my head I know that in California you don't have mandatory issue and so what we've seen in the face of wildfires is insurers, as the Wildland Urban Interface area (WUI) has shown, have pulled out of areas where they're worried about their risk profile. So I think mandatory issue has a lot to do with how that question gets answered and to my knowledge it's very rare to see mandatory issue anywhere in this country. Rep. Jordan stated that other speakers can answer that questions with a yes, no, or I don't know. Mr. Schnautz stated that this model hasn't been adopted anywhere. Rep. Jordan stated so that's a no. Rep. Jordan then recognized Rep. Lehman for closing comments.

Rep. Lehman thanked everyone for their input on this. A couple things I just want to bring up related to points that were made. One is I think we give a lot of leeway to the Department of Insurance that promulgates rules and so you're going to have to be very clear during that process. Also, this has not been implemented in any state and Indiana is the first state to really adopt something close to this. It's in the Senate now and it's going to probably be changed as I'm hearing but I'd also say NCOIL passes models that we think are good longer term. If it doesn't fit your state right now, don't implement it in your state right now but I think we have to get the template out there and then have that discussion. Regarding the issue of we're carving out a huge chunk of people from the filed rates, again I'll use Indiana as an example. I would say over the last five years our rates in Indiana have basically stayed fairly flat. We've got some small increases here or there but really we have a very competitive market. So my focus wasn't on showing everything but simply saying if you're going to be outside that competitive market an individual disclosure applies. That's why it's the 10% above those filed rates. I do think the market is responding to the competition. These are the outliers. And with that I'd appreciate the Committee's support.

Rep. Jordan stated that before I make some brief comments I'm going to just remind you that we're going to have I think two amendments to vote on. So we're going to vote on the amendments first and then on the model with the amendments if they pass. Per the NCOIL bylaws only members of the committee are allowed to vote so if you're not a member of the committee you won't be allowed to vote. That being said, I am going to start by agreeing with Mr. O'Brien. I think this model is a compromise with a big C. I want to thank Rep. Lehman again for all the hard work that he's done on it because I will tell you I'm the one that thinks it has been compromised on the other side. I certainly think it should apply to declinations as well. And let me just give some context to where we are on this and it sort of disappoints me to hear some of the folks in the industry against this but again I won't let the perfect be the enemy of the good. On May 25th of I believe 2020 there was the death of George Floyd ironically in Minneapolis where our next meeting will be held. Under the leadership of Rep. Lehman he started the NCOIL Special Committee on Race in Insurance Underwriting. From that in part is where this model emanates from and I don't want that to be lost on anybody because it's three years later and now things somewhat go back to normal because at the time everybody in the industry was talking about diversity, equity and inclusion and some of the things that we could do to make things better and more transparent. And I think this is an effort by Rep. Lehman to try to reach that. So from that perspective I would hate for the perfect to be the enemy of the good and let this model fail and I would certainly hope that everyone would vote for it. That being said again I don't want

it to be lost that it is a big compromise and as someone who participated in that aforementioned committee along with others I don't want that work to be for naught.

So with that being said I just want to be clear we have two amendments to consider, one relating to the notice to agents being made through the portal, and the other is changing “may” to “must” regarding providing a point of contact. Rep. Lehman replied that is correct. Rep. Jordan stated that he will entertain a motion for those amendments. Upon a Motion made by Rep. Michael Sarge Pollock (KY) and seconded by Rep. Forrest Bennett (OK), the Committee voted without objection via a voice vote to adopt the amendments.

Rep. Jordan then stated that he will entertain a Motion to adopt the model as amended. Upon a Motion made by Rep. Bennett and seconded by Rep. Pollock, the Committee voted to adopt the model as amended via a voice vote. There were two voice votes in opposition to the Motion.

ADJOURNMENT

Hearing no further business, upon a motion made by Sen. Bob Hackett (OH) and seconded by Del. Steve Westfall (WV), the Committee adjourned at 10:30 a.m.