NATIONAL COUNCIL OF INSURANCE LEGISLATORS
NCOIL – NAIC DIALOGUE COMMITTEE
2024 NCOIL SPRING MEETING – NASHVILLE, TENNESSEE
APRIL 12, 2024
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue Committee met at The Sheraton Grand Nashville Downtown Hotel in Nashville, Tennessee on Friday, April 12, 2024 at 1:15 p.m.

Representative Tom Oliverson, M.D. of Texas, NCOIL President and Co-Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Justin Boyd (AR)
Rep. Deborah Ferguson, DDS (AR)
Rep. Linda Chaney (FL)
Rep. Matt Lehman (IN)
Sen. Beverly Gossage (KS)
Sen. Lana Theis (MI)
Sen. Michael Webber (MI)
Sen. Paul Utke (MN)
Rep. Bob Titus (MO)
Rep. Nelly Nicol (MT)
Sen. Vickie Sawyer (NC)
Sen. Jerry Klein (ND)
Rep. Tim Barhorst (OH)
Sen. Bob Hackett (OH)
Rep. Brian Lampton (OH)
Rep. Ellyn Hefner (OK)
Rep. Lacey Hull (TX)
Del. Steve Westfall (WV)

Other legislators present were:

Asm. Tim Grayson (CA)
Rep. Toby Overdorf (FL
Rep. Jeff Keicher (IL)
Sen. Aaron Freeman (IN)
Sen. Mike Gaskill (IN)
Rep. Peggy Mayfield (IN)
Rep. Jerry Neyer (IN)
Rep. Patrick Penn (KS)
Rep. Bull Sutton (KS)
Rep. Sean Tarwater (KS)
Rep. Larry Bagley (LA)
Del. Nicholas Kipke (MD)
Sen. Mark Huizenga (MI)
Sen. Natasha Marcus (NC)
Sen. Bill Gannon (NH)
Asm. Roy Freiman (NJ)
Sen. George Lang (OH)
Rep. Forrest Bennett (OK)
Rep. Mark Tedford (OK)
Rep. Carl Anderson (SC)
Rep. Dennis Paul (TX)
Rep. Barbara Dittrich (WI)
Sen. Mary Felzkowski (WI)
Del. Walter Hall (WV)
Del. John Paul Hott (WV)

Also in attendance were:

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

QUORUM

Upon a Motion made by Sen. Lana Theis (MI), and seconded by Del. Steve Westfall (WV), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Sen. Paul Utke (MN), NCOIL Treasurer, and seconded by Sen. Bob Hackett (OH), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's November 17, 2023 meeting.

INTRODUCTORY REMARKS

Before getting started with the agenda, Rep. Tom Oliverson, M.D. (TX), Co-Chair of the Committee and NCOIL President, stated that he would like to acknowledge and thank our representatives from the National Association of Insurance Commissioners (NAIC) who have joined us today: Indiana Commissioner Amy Beard; Kansas Commissioner Vicki Schmidt; Louisiana Commissioner Tim Temple; Oklahoma Commissioner Glenn Mulready; Pennsylvania Commissioner Mike Humphreys; Tennessee Commissioner Carter Lawrence; Utah Commissioner Jon Pike; and Wisconsin Commissioner Nathan Houdek. I really appreciate everyone joining us. One of the really important things to me not just as NCOIL President, but just as a member of NCOIL, is the very close relationship that we have consciously worked very hard over the last many years to develop between our regulators and our legislators. We can't do what we do without you all. And you need us as well. So, we're grateful to partner with you and we're grateful that you're here as we've worked together on these issues.

RECAP OF NAIC SPRING MEETING AND DISCUSSION ON NAIC 2024 PRIORITIES

Rep. Oliverson stated that last month the NAIC concluded its Spring Meeting in Phoenix, AZ and myself, Rep. Matt Lehman (IN), NCOIL Past President, and Rep. Jim Dunnigan (UT) were privileged to be able to join you all at that meeting where we had a very nice discussion about several issues. Normally, the NCOIL Spring Meeting precedes the NAIC's Spring Meeting but since we're doing it in reverse now we thought that it might be a good idea to begin the dialogue by discussing sort of a quick recap of the highlights of your Spring Meeting.

Cmsr. Mulready stated that before we get to that, I'll just echo your comments about the effort that's been put in and the progress that's been made with NAIC and NCOIL. I think you need no more proof than that than to see you've got seven regulators here at this meeting. And I don't know how many but probably about a dozen staff as well from our departments are at this meeting. So, that speaks volumes I think on the progress that has been made. And I speak especially to the new members who are here for the first time. I previously was a legislative member and was very engaged with NCOIL and the great work that they do here. I will kind of kick it off here, but then we've got folks lined up to hit on the different topics. As you mentioned, last month we had our meeting in Phoenix. We had 2,300 attendees for that meeting. We did have a great breakfast with the NCOIL officers. and the NAIC officers. Those are just so helpful to have that small group and have really helpful conversations that take place there. I'll start out with, as many of you know that on April 30th of 2023 Commissioner Mike Consedine resigned from the NAIC as CEO and at the meeting in Phoenix we announced the designation of the new CEO, Massachusetts Commissioner Gary Anderson. He is a friend of all of us on here and I think very uniquely qualified. He served as staff in the Massachusetts Senate. He's an attorney. He has served as a Commissioner under Republican and Democrat Governors and he also has Chaired the NAIC International Committee. So, he has his head and hands around the international space better than anyone at the NAIC. He will begin on May 1st in that role and that was announced in Pheonix and I know we are very much looking forward to that. One other thing I might add and it wasn't announced in Phoenix but just sort of some late breaking news in the NAIC world, Illinois Director Dana Severinghaus has resigned and the Governor appointed Ann Gillespie who will actually begin on Monday. She has quite a background in healthcare and was elected to the IL Senate six years ago in the northwest suburb of Chicago and Arlington Heights so we're looking forward to meeting her and welcoming her there. So, that is sort of the quick snapshot of the NAIC and I will now toss it over to Cmsr. Humphreys who will talk about some of the regulatory priorities that we're working on.

Cmsr. Humphreys stated that I am glad to be back at NCOIL. As some of you know. I was the NCOIL Director of State Federal Relations 15-plus years ago at a time when Dodd Frank was popular and fights about the optional Federal Charter were popular and of course the Affordable Care Act (ACA) went through. So, I'm glad to be joining you again. As part of the beginning of every year the NAIC will get together and will discuss what our priorities are going to be for that year. You heard NAIC President, Connecticut Commissioner Andy Mais, roll them out largely at the spring meeting. I will talk about them again today. We have five key priorities that we're focusing on this year, the first being our continued work on climate risks, natural catastrophes and resilience. I know later in this agenda we'll talk about one of the issue areas within that bucket and that's data collection and the data call that we are working on independently but we'll collaborate with the Federal Insurance Office (FIO) on. We're also looking towards advocating for mitigation funding and I think that's another issue on your agenda. In addition to climate issues, insurer financial oversight and transparency remains a key priority for us. We have a number of accreditation bills that many of you have already passed. I think the two largest bills, I would say from a financial regulatory standpoint that 31 states have already passed were the Holding Company Act revisions that included what we call a group capital calculation and then also Holding Company Act amendments to a liquidity stress test framework. So, neither are particularly interesting. Combined, they are very long and when they come before you, they are very technical and you'll hear us kind of talk about what they mean for accreditation purposes and what accreditation means for the insurance department. I don't think I need to get into too much detail on what accreditation is other than it's really the argument NCOIL made 16 years ago about why we don't need a federal charter is because the accreditation program is so strong in where uniformity is required across the states on financial regulation of insurance companies, we have provided it through the accreditation program. So, it’s important legislation that many of you will still see probably if not this session, then next session. A third priority is marketing of insurance products. We continue to look at and spread the word on how to address bad actors in our markets. Many of us have partnered with you in our respective states on things like fingerprinting reform and providing resources to the departments to help oversee our thousands of licensees at the state level. One area that I think we can probably collaborate more on is the NAIC continues to push Congress to restore state regulatory authority over Medicare Advantage marketing. We have no authority in that space today. All of our states here and our departments of aging will get complaints on an annual basis about what happens in the Medicare Advantage space. We can try to work with those complainants. We try to work with the federal government. But, ultimately we have very limited authority so I think that's an area where we can work together and with Congress on to try to see if we can increase the authority that state insurance departments have to crack down on those that seek to take advantage of insurance consumers.

The fourth priority is our continued work in the race and insurance financial inclusion and protection gap space. This is a key priority again of Cmsr. Mais who focused a lot of his welcoming remarks on closing protection gaps. As one of our next agenda items I'm going to talk about, I co-chaired the life work stream of our special committee on race and insurance and we are working there on a policy statement that I'll talk about shortly that I think is another area where regulators and legislators can really work together to improve. In particular, the financial literacy of our graduating high school seniors. And finally, the last highlight that I think Cmsr.

Beard will talk about shortly is the use of artificial intelligence (AI) by insurers and cyber risk. We have continued to try to balance innovation with consumer protection and privacy of consumer data and you'll see us continue to work in that space throughout this year both from an implementation standpoint of the bulletin that Cmsr. Beard will talk about and also, further development of privacy legislation. Also, you have heard time and again about suitability in annuity transactions. It's one way that we counter the Securities and Exchange Commission (SEC) and the Department of Labor (DOL) when they try to bring fiduciary requirements to our agent producers. We countered that with a best interest standard in the annuity space. Many of you that have been around for 20-plus years remember that suitability started off as NAIC had a model suitability bill for 55 and over. That was amended probably in the early 2000s with the argument from legislators and regulators being if suitability is good for people over 55, shouldn't it also be good for people under 55? The answer is yes. So, we adapted the model. I think NCOIL at the time endorsed it if I remember correctly that was probably during my tenure at NCOIL. And then more recently we have gone beyond just the suitability standard to develop a "best interest standard". So, not only does it have to be a suitable product for a consumer but it also has to be in their best interest to pursue that policy over another policy or conflicting policy. The other model I would highlight for you, and 23 states have adopted the Data Security Model Act, Pennsylvania being one of them. And that really talks about requirements for insurance companies and the security preparations that they need within the companies. I think we've all seen data breaches become more common in the insurance space. We have a very significant one in Change Healthcare that I'm sure you all have heard about and it continues to be a challenge for many of our hospital systems, many of our providers. The data security model was the NAIC's answer a couple of years ago to heighten standards for insurance companies and those that they do business with to ensure that they have mechanisms and procedures in place to protect consumer data.

Cmsr. Mulready stated that just to add an exclamation point to something that Cmsr. Humphreys talked about and that was the marketing of insurance products, talking about Medicare Advantage. An issue that we're all dealing with right now is the switching of individual health plans. You may have heard about or read about it but there's just a lot happening there. My personal opinion is that a lot of that is tied to this continual open enrollment for anyone at 150% of the federal poverty line or below. So, they can make a plan change any point. We've got some I'll just call them rogue agents out there moving folks without their permission and people are ending up in plans that they didn't sign up for. We have folks in Oklahoma I know that are Native American who've been moved to plans and lost those sort of additional Native American benefits with the ACA. So, just to bring that to your attention that that is a big issue happening right now that we are focused on at the NAIC.

UPDATE ON IMPLEMENTATION/ADOPTION OF NAIC'S MODEL BULLETIN ON THE USE OF ARTIFICIAL INTELLIGENCE SYSTEMS BY INSURERS

Rep. Oliverson stated that we're going to transition at this point to an update on the NAIC's model bulletin on the use of AI systems by insurers. So, just for the benefit of my colleagues, after extensive discussions the NAIC wrapped up last year by adopting a model bulletin on the use of AI systems by insurers. You can view the bulletin in your binders starting on page 93 and also on the website and app. NCOIL worked with the NAIC throughout the development of the bulletin. We submitted some comment letters noting some concerns that we had, chief among them being the importance of making sure that a bulletin would apply only existing law rather than creating new law. And our concern dealt with the fact that the NAIC chose to deal with AI, a topic that is perhaps the most important and relevant one facing not just the insurance industry, but our society as a whole through a model bulletin rather than a model law or regulation, which I know you're going to clarify for us why you chose that path. We understand the perspective that AI is evolving rapidly and that legislation may not be able to keep pace and so we understand that this provides some agility, but as legislators we are responsible for oversight and we do need to be mindful of the NAIC using model bulletins on controversial matters as a possibility of being a means around legislation. And we don't believe that's what you're doing here but we would be remiss if we didn't at least talk about it. So, with that being said, can you share with us an update on what states have adopted the bulletin and what the next steps are with regards to the bulletin and any other model bulletins that may be in development that are related?

Cmsr. Beard stated that it has been about a year of work and development and working with stakeholders on developing the AI Model Bulletin. And this concept was first discussed back in 2022 at the Innovation Cyber Security and Technology "H" Committee. They announced that they were going to do some form of guidance that would take the form of a principle-based bulletin. And so, the Commissioners, we discussed what form or what vehicle we would want to use to address AI and we thought the bulletin made the most sense because it is based on existing law. It is not trying to create new law. It's based on existing law in some states, some regulations that deal with claim settlement practices, unfair discrimination laws, underwriting, market conduct rates and corporate governance laws. And so, because of that the bulletin is really a place to address things such as responsible governance, risk management policies and procedures and also lays out the expectation of a risk management program to be developed by the insurers. It is there to remind insurers that decisions impacting consumers, making sure that those are supported by already existing law, the state rate making laws, the regulations, the unfair claim settlement processes. Drafts were exposed for public comment in July 2023 and then in October of 2023. There was a new comment period to allow input from industry, consumers and legislators. So, once we had that feedback, significant edits were made to the bulletin at that time and some of the edits addressed some of the National Institute of Standards and Technology (NIST) standards and updating the language on third-party contracting and testing and validation processes. So, to answer your question, there are eight states that have currently adopted the Model Bulletin: Alaska, Connecticut, Illinois, Nevada, New Hampshire, Rhode Island, Vermont and Pennsylvania. There's a state adoption map that is on the NAIC website that you can access and it'll be updated as states continue to adopt the bulletin. And then the NAIC is also developing a reference guide that will show how each states bulletin compares to the original version that was adopted.

Rep. Oliverson asked, as these states are adopting this and it is sort of rolling out now from conceptual to implementation phase, have there been any issues, hiccups, pushbacks, or any problems that you've seen as this has sort of played out? Cmsr. Beard stated that speaking personally, I have not seen anything in my state and working with my colleagues but I'm happy to take that back and report back if there are any hiccups. Cmsr. Humphreys stated that Pennsylvania adopted it after vetting it with the industry so we put it out there and we received comments and they largely track the comments that were received through the NAIC process. It was a spectrum from full support to you should look at these couple issues. In the end for the purposes of uniformity and giving kind of a consensus approach to the companies we deferred to largely the NAIC model and obviously we had the Pennsylvania eyes it but no other issues have been seen since we issued it. Granted, that was a week and a half ago

Sen. Mary Felzkowski (WI) stated that I was reading through this and when I look at your definitions, I understand the idea of what you're trying to do and I applaud you because when it comes to AI nothing is easy. Nothing is easy when you're trying to do law or you're trying to do definitions. But "adverse consumer outcome" - if I'm settling a claim and it doesn't go the way the consumer wants that's an adverse consumer outcome. Or if I'm underwriting and the person has a low credit score and I deny that person coverage, that's an adverse consumer outcome. Can you elaborate a little bit on the broadness of that definition and how you arrived at that definition? Cmsr. Beard stated that I think looking at that definition I would want to take that back to the group that worked on the bulletin itself to make sure that any comments about the development of that definition were accurate and we can certainly do that. As for the definition in the bulletin as it stands as states are adopting it I know for example, Indiana, my department has not adopted the bulletin yet. And every department has the ability to change certain things in the bulletin to make it appropriate for their state. So, I think something in my state that works really well when working with the legislature is I tend to make sure that the department tries to stay in its lane. And so, they are the policymakers, I am the regulator. And I would not want to overstep and I would probably look to existing state law, some of the state laws that I described earlier when implying that interpretation of the definitions. I think whatever the interpretation is of the bulletin's definitions it kind of leans on whatever that state's laws are as they exist but I'd be happy to call some of my colleagues who have adopted the bulletin to opine on that but I think what we'd like to do is take that back to the working group that handles the bulletin. Sen. Felzkowski stated that because if we're adopting a model and we're going to suggest that we take this back to our states and NCOIL's going to put a stamp of approval on it, I think we'd like to know how those definitions were arrived on and what the intent was behind them. So, thank you. I would appreciate that. Cmsr. Mulready stated that I'll just speak to what I believe the intent of was – I think it was unfair or unwarranted adverse outcomes as opposed to adverse outcomes in and of itself.

AUTO AND HOME INSURANCE AFFORDABILITY AND AVAILABLITY CRISES

Rep. Oliverson stated that next on the agenda, we were hoping to visit with you about auto and home insurance affordability and availability. We've obviously been talking about this a lot already this morning and I think the insurance specific media loves to talk about increases and decreases in rates but if it ends up being the New York Times or the Wall Street Journal as it has been recently, that kind of gets my antenna up that maybe this isn't a localized problem. Maybe it's not just California, maybe it's not just hailstorms in Texas. But maybe this is a nationwide thing. And I know we've spent some time talking about this already and I know that you all have been looking at this very carefully and are continuing to do so. So, I was wondering if you could just give us your perspective on what the NAIC is seeing in property and casualty affordability and availability and what you're game plan is moving forward and how you're addressing that just to help us see where you're going so we can figure out where we're going.

Cmsr. Pike stated that I think probably the best place to start with this is the data call that the NAIC just announced on March 8th, a property and casualty market intelligence data call. And most of you probably know the history of this but FIO came to us basically saying we want this data and we want it to be from the property and casualty marketplace. We want it to be very granular. We want it to be zip code based. And though many states gather that kind of information at that level of detail, some don't. And so the NAIC couldn't provide what they were after as quickly as they wanted it. They wanted it now basically. And so it became this discussion as to what they would do about it and I'm speaking for myself but I think that many of us anyway didn't want to see FIO get into this area. I imagine some of you feel similarly. And so we had some pretty heated discussions about that to say what do we do to avoid having them get into this space. I think that started last summer when we met as Commissioners and kind of finished up in the end of November and we basically finally played a little bit of chicken and in the end I think I'd like to think that they blinked. We're able to say, "we'll do the data call rather than there be two" which would have been, I think, a disaster and awful in a number of ways. So we'll do one. We didn't cave on everything that they wanted. It's got to be anonymized data and we are hoping and we've put it in writing that once we finish the data call, which, by the way, that data is due June 6th, we will basically make our summary and response first and then we will give it to them.

We certainly are pleading with them asking them not to try to use it for political purposes. They probably will. But in my view, it's a snapshot at a point in time that should not be used inappropriately or to assume certain things. So that remains to be seen what they do with it but the good news is we will have data about all the things you mentioned and more that we don't currently all have. And of course we looked at it and together they wanted to have 80% of the market basically captured through this data call on a premium basis. And so we found a way to do that and we have a majority of the states, I don't know the exact number, that agreed to do this and either wanted the nationwide data or at least their states. Like in my case I'm interested to get the data for Utah. And so, that's the long and short of it. It certainly will provide we think deeper insights into market concentrations, competitiveness and could identify geographic coverage gaps and affordability of coverage issues. So, we hope that it will provide some good things and we also are glad that at least for now it keeps FIO out of the data gathering business. Are there any examples from my colleagues that you've received so far of pushback from insurers or just any experiences so far since announcing the data call or any comments otherwise on this topic?

Cmsr. Humphreys stated that I wear another hat as I'm on the Federal Advisory Committee on Insurance (FACI). I'm one of two Commissioners on it and participated in the recent FACI meeting and we talked about the data call and I think there's broad support for a single data call. There's not going to be a redundant data call from FIO right now. I think to Cmsr. Pike's point, it's the messaging is going to be important. It goes back for five years of data so can we make 200 year generalizations over five years of data? Probably not. But it puts many of our states in a good position to have more data on our own markets and look at where we may have pockets across the state that my team will want to focus on in the future. I would say separate from the data call which I'm happy to talk about kind of FIO vs. NAIC, but separate from this and I recognize that you all have a general session on cost, it's not just property homeowners. It's also auto. One of the issue areas that I get a number of questions on and I did at my budget hearing this year is auto insurance rates. And I suspect that as part of your conversation tomorrow there will be some p&c trades that will come and tell you part of the reason auto insurance rates are going up is because of regulatory efficiencies, they say that all the time. But I think what I would implore you to look at as you have that conversation is there needs to be a recognition of the substantial increase that inflation plays as part of this process. When we have seen double digit increases in inflation it is hard to keep an auto rate down. So yes, they're going to complain that sometimes some of our departments take longer than others to review a new proposed rate or a new proposed policy but I think what we're trying to do when we get faced with these rate increases that companies will come in and I approved I think two Geico rate increases two years ago and they were actuarially justified. I don't like approving a rate that's 35% but these companies can actually show us and we make them go back on a quarterly basis over the past five years to show us their claims runouts, to talk about what the projections look like on a going forward basis. And our teams really do try to balance kind of the regulatory need for rates and the standards that we all apply to that rate, that the rate shouldn't be excessive. It shouldn't be inadequate. It shouldn't be unfairly discriminatory as we review those rates. So, it's not just the “regulatory inefficiencies” that I would argue maybe are inflated from time to time. My team turns around a p&c rate increase less than 20 days on average. I think that's eminently reasonable. But there are these other cost factors that anybody that's bought a car, that has had to lease a car, can recognize that these costs are really significant now. They are growing in price, parts are growing in price at significant rates and that ultimately does have a significant cost on automobile insurance. And we'll get this question from time to time that you personally may not have had an auto accident over the last year, but as we all know, insurance is the pooling of risk. And as the cost to insure those overall risks increase at pretty substantial levels you too will face a rate increase as the system works its way through and accounts for the additional and new costs that are coming into the system. I know you're going into that conversation tomorrow and I just wanted to give you some additional perspective, at least from Pennsylvania on other cost drivers that I think you should consider as part of that conversation.

Rep. Oliverson stated that I'm curious from our other Commissioners from different states, is it your consensus that you're all seeing the same kind of rate increases and availability challenges in your states that I might be seeing in Texas? I guess what I'm asking is, is it a fairly uniform problem? Because that's what I keep hearing. Cmsr. Pike stated that I'll speak from Utah's perspective, yes. Inflation, higher priced vehicles, more gadgets, technology - all those things factor in here but one of the big things is inflation.

Cmsr. Schmidt stated that I think in Kansas, the macroeconomic factors that we can't control are very hard to hard to justify when you have a consumer calling and voicing their concern about their rates going up. But I do think we all want these new gadgets on our cars, right? And a lot of them are for safety. As a physician, I know they save lives and they do wonderful things but they're very expensive to replace. I wanted to return quickly to the data call and I don't know whether you said this or not but over 80% of the premium written will be included in that data call. And I think that's an important number - we're surveying both local companies and companies that do business across state lines and I think that's a good point to make. And I also think that might be why FIO was more agreeing to just have that one data call. And I know from my insurers that are being surveyed they don't want to answer these questions 50 times. It's time consuming for them and it wouldn't be good for everybody to do that individually.

Rep. Matt Lehman (IN), past NCOIL President, stated that I want to go into something that we have talked about in the past and I think what your data call is going to prove is what most of us in this room know and that is inflation is killing us. What we've been replacing roofs for four or five years ago has almost doubled. Cars are more expensive for repairs. The other side of this coin is the availability. And so my question is what's the data call going to show? Because what we see on the broker side is we're seeing a carrier get deeper into the technology whether it's telematics with cars, whether it's drone technology looking at roofs and things like that. And we're starting to see now this movement I think there might have been an article a week or so ago about, “Hey, we looked at your roof and your roof has used up its life. We're going to non-renew your insurance.” So, some of this technology is leading to a potential availability crisis and I think when there's been some pushback to that like well what if I go out and get an independent inspection? Or what if I go out and get a second estimate? The answer is “our decision is our decision.” And again this hard market, I'm very sensitive to the affordability portion of this because everybody's taking rate increases and as an agent, we hear that every day. I'm more concerned honestly with the availability because I think that some of this technology we're getting into is we're going to use that to basically get rid of anything that potentially is going to cause us a serious claim and so we're going to have a crisis coming, I think.

Cmsr. Beard stated that looking at rates we specifically try to focus on Indiana experience and I think that is important to note because we have had some serious storms in the state. And so, I think we are going to continue to see the effects of those storms not only just immediately, but for a prolonged period of time as we look at these rates. And so, as we're considering rates, we also are working with the carriers to make sure that the other factors that are at play are not adversely impacted and availability is one of those things. So, we can work with the carrier during a rate filing to talk about maybe the carrier wants to stop doing business in a certain area or non-renew. We have been able to work with a couple of carriers to work on some of the rate filing aspects of their request to also talk about availability. And so, I think it's important for the regulators to look at different areas that are impacted by rate filings not just traditionally in the sense of the actual rate filing itself, actuarially, but pulling in other areas of the department's expertise to look at the subject matter expertise of some of the policies that go into place behind some of these filings and what's available. And then I think also relaxing some regulatory requirements that are reasonable I think can be helpful for ensuring that insurers are able to do business and uphold their consumer promises. And I'm all for consumer protection but I also want to make sure that industry is able to remain financially solvent and so with those things in mind we look at what parts of the state are being hit hardest and where are we seeing some of the availability issues and trying to go, I know that we did a town hall in southern Indiana a few weeks ago where there was a storm. And we wanted to make sure that people were able to continue on their coverages. And if they were going to be non-renewed, we put in a moratorium and then we are saying that we will work with the carriers to try to help with placements of products and encouraging them to work with their agents.

Cmsr. Mulready stated that the only thing I would add to that is I think that the best thing that we can do from an availability perspective is that we ensure that we have a competitive free market happening in our states and that we aren't putting up artificial hurdles that would take away the ability for the players in the market to fully underwrite and price accordingly. I am not taking a shot at anyone from California but we've seen what’s played out there and some of those artificial hurdles were put in place and then you see that availability disappearing and that competition is disappearing. And so I believe that's the best thing we can do is ensuring that we aren't hindering that. In Oklahoma, we have over 100 companies licensed to write homeowners insurance in the state. So, ensuring that they have the ability to underwrite that and price out accordingly is important. It's math. That's something that we can do to best address the availability issue.

Cmsr. Schmidt stated that in Kansas, thank you to our legislators because working with them we've been able to reduce a lot of fees on the industry and we're trying to do our best to make it a better place to do business in. I think you have to constantly look at things like that.

Cmsr. Humphreys stated that at the risk of being the wet blanket, at the same time and I think it's something that Rep. Lehman brings up, there are more third parties now as part of the process that the NAIC is grappling with now. We created a third-party working group that is these modelers that are coming in with these different scoring systems or different roof reviews. I looked at a couple of pictures with some of my consumer teams. They were so high up you couldn't see a darn thing on the roof and then you're going to try to take negative action against that individual and they have very few rights or limited opportunity to appeal based on that one picture that’s 1,000 feet up in the air. It's not a drone in this example of what I saw but there are some with drones and there are others that we've even seen that come in and they've developed tree scores. So, I live in a wooded area, but what they're not doing is giving necessarily each individual an opportunity again to impact the score that they're being provided. So, if I'm in a wooded area, but this system is not fully developed it doesn't have every house in every neighborhood, so instead of giving me a score it gives me the average of the area that I live in. So, regardless of whether I've cut every tree down on my property so there's not going to be a tree that falls on my roof, because they don't have a rating for my specific neighborhood, I get the average of that group in the wooded area. That's not fair. And what we have been looking at is when there is undetermined data and you see it even more in the models where undetermined will come up is areas that we think are common like we will get proposed scores that will talk about the number of car doors that your vehicle has and it's undetermined and there will be a factor that applies to undetermined. The consumer in these instances has got to have some opportunity for recourse as part of that underwriting decision because the average is not fair necessarily to all individuals. So, I think that's the hard part with the balance and kind of the new innovative and there is much good from a lot of the innovative strategies that companies are employing but there has to be a balance. And I guess to Cmsr. Beard's point, our most important consumer protection is the solvency of our industries. So, that is obviously at the top of our mind and how we approach it but also want to make sure that as these new systems are being developed there is a balance, there is an opportunity for consumers to understand what they're being rated on and the process they can have to potentially have input into how that rate is developed and applied to that specific individual in those cases.

Cmsr. Beard stated that Cmsr. Humphreys raised a point in my mind, which was the better tools that regulators have to be able to do their jobs I think it's helpful. And so, we're trying to innovate some of the resources we have to be able to keep up with industry or address some of these new technologies. So, for example, at the NAIC, we're doing a System for Electronic Rates & Forms Filing (SERFF) Modernization Project. SERFF is the forum where rate filings and form filings get made with the states for review. So, that should be an innovation that will be available to the states to use. We also have our p&c actuaries across the states have developed a working group and they're very active and they have a place where they can upload some of these models that they're seeing or some of these new innovations that companies are using. And so, I think as there's more collaboration across the states with fellow regulators and an increase in the resources that we have I think that will continue to be able to address some of the concerns raised here today.

Rep. Oliverson stated that I'll close this portion of our dialogue by saying that it's obviously encouraging to us that NAIC was able to get to a resolution with FIO. I would point out that FIO's actions along with the Department of Labor's fiduciary rule, along with the new proposed rules on short term limited duration insurance - it seems like the federal government is flexing its muscles again against McCarran Ferguson. And I would just say as NCOIL President, it might be worthwhile for our organizations to consider penning a joint letter to our federal agencies reminding them about the importance of the state based system of insurance regulation. So, if you all would like to work with us on that, we'd love to stand shoulder to shoulder with you on that. Cmsr. Pike stated that we will take that back to the NAIC Officers – it's a great idea. Rep. Oliverson stated that and secondly, we are very interested in your data call. On page 113 of the legislative binders we have a copy of the press release from NAIC and I've asked for this to be a standing item of update at all of our future P&C Committee meetings, an update on the data call. So, we really want to participate with you. We're excited about the work that you're doing. We're looking forward to the information and the data as that may help us be better informed about what we need to do as lawmakers in making sure these markets are healthy and strong. I think we're in agreement that we want consumers to be protected. But obviously, if there's no market there, there's no concern about protection because there's no availability so it's a balancing act.

DISCUSSION ON NAIC'S EFFORTS TO SUPPORT FINANCIAL LITERACY COURSES IN HIGH SCHOOLS

Rep. Oliverson stated that I wanted to turn our discussion to the NAIC's efforts to support financial literacy in high schools. As many of you know, April is National Financial Literacy month. I think everybody can appreciate the importance of folks actually having financial literacy, especially our younger generation. And so, I wanted to give you a chance to comment on your work and to just also thank you for prioritizing that and making that an important issue for NAIC.

Cmsr. Humphreys stated that I am the Co-chair of the Life workstream of the NAIC's Special Committee on Race and Insurance and one of the issue areas that we are tackling this year is one that I've actually worked on for the last 10 years. When I was a regulator in Tennessee, Tennessee was one of the first states to require a completion of a personal finance Financial Literacy course as part of its high school curriculums. It is an issue that is constantly one that we're challenged by. When we go out, when we meet with constituents, when we go into storm ravaged towns following catastrophes, there's obviously an information and a knowledge gap often. Because insurance can be complicated. And the idea behind this policy statement would be is really to put the NAIC on the map as being supportive of your efforts that I think is really growing across the states. Even over the last couple of years in terms of requiring our graduating seniors who have completed a course of personal finance, we believe that as part of a course in personal finance there should be at least some teachings towards the basics of insurance, premiums, deductibles, maybe a 101 overview of the general lines of insurance that somebody coming out of high school will encounter. And it's one that I looked at from a special committee lens because there are so many different challenges with one parent households, foster children, and others, and even in states where it's made optional you tend not to see schools in lower income districts in more diverse districts that will stand up a financial literacy program. So, what I think is incumbent on all of us to do is to work together. And I tried not to be prescriptive in the policy statement because I think each state is going to be different. I think insurance Commissioners have a role to work with you and then to work with our departments of education who are responsible for developing what the curriculum should look like. It's easy to put out a policy statement. I know you'll hear from teacher groups and others sometimes about whether it's an unfunded mandate or not and I think needing to be able to work together to help develop teacher training is important to help them be able to teach these courses.

But we issued this document for public comment at our last meeting, the comment deadline was April 1st. We received positive comments from the American Council of Life Insurers (ACLI) and some of the NAIC funded consumers. I think we'll probably adopt it from the life work stream maybe at our next meeting later this month, if not probably in May and send it up to the full committees because really it's not necessarily just a life insurance issue but it's a conversation that I thought we had to have and it needed to start somewhere. So, our workstream took it on ourselves, Arkansas Insurance Commissioner Mark Fowler and I are moving this forward. We heard from a resource called the Center for Financial Literacy at Champlain College and this is where the data comes from to suggest that it's grown so significantly. So, today, for the graduating class of 2023 seven states have requirements that their senior graduating class have taken a personal finance course before graduation. By the time that we roll into 2028, that is already going to be 25. So, we are halfway there in a short period of time and this is all happened over the last five years and I think we can do more to help those remaining states build resources, build opportunity and we should work together with the insurance legislators around the table. It may not even always come through your committees. It may be economic matters committees, education committees, but I think it's such an important issue for young adults today that we need to start earlier and I think the earlier we can start the better. I have actually challenged my professionals, in Pennsylvania we have a Junior Achievement program where you even go in it in lower levels in schools. I'm going to teach second grade personal finance over the course of two weeks later this month. But when I get the roster of individuals participating in personal finance, the insurance industry is woefully underrepresented. It's about 80-86% banking industry, maybe 5-10% at least in Pennsylvania of individuals going into the classroom to talk about insurance. And that's really where we can get this started. I think the game has changed substantially over the past 30 years. I grew up playing that board game Life and at the beginning of Life you start buying auto insurance. You buy homeowners insurance. So when you land on one of those spots and your house catches on fire you get paid. If you don't, then you end up losing and you owe the bank money. So even simple games like that and just starting the students by understanding what the basics of insurance are can go so much further and any study is going to tell you, they get the basic introduction here that leads to better credit in the future, better understanding their personal finances. That all ultimately bears itself out on the insurance side also. So, to me it's a no brainer and it's one that regulators and legislators can really work collectively on in our two groups specifically to encourage other states to follow suit and get this level of basic understanding for our future leaders.

Rep. Oliverson stated that I particularly liked what you said about role-playing in games really is a very valuable teaching tool instead of just lecturing to kids but giving them the chance to actually experience a loss and the difference between a loss when you're insured and when you're not insured. That's a pretty powerful example. So, we appreciate your work on that.

UPDATE ON NAIC'S "FRAMEWORK FOR REGULATION OF INSURER INVESTMENTS", INCLUDING PROPOSAL RELATING TO SVO'S RATINGS DISCRETION PROCESS

Rep. Oliverson stated that we are running a little short on time but I did want to arrive at I think one of the more pivotal discussions that we'll have here and that is an update on the NAIC's "framework for the regulation of insurer investments" including proposals relating to the Securities Valuation Office (SVO) ratings discretion process. So, for the benefit of my colleagues that may be new to this discussion, this is an ongoing conversation that the NAIC has been having and this is a conversation that we've been involved in. If you are new, I would ask you to look at page 104 in your binders. That's where you'll find the NAIC's proposed framework for the regulation of insurer investments and within that framework there is a specific 15 step process set forth that enables the SVO to review all filing exempt securities and determine whether the rating was reasonable or unreasonable from a regulatory standpoint. You can find that 15 step process on page 111 in your binders. Obviously, I know this is a process we've been talking about for quite a while. This is certainly not the first conversation I've had with the NAIC members on this issue, and I believe my predecessors as well. So, I know we've been talking about it for a while but we had flagged some potential issues to be addressed really into three buckets as the concerns that we raised to you. And one was the due process and appeal rights that someone that's under this review would have under this proposed document. The other was unintended consequences for the macro economy; and then the fact that there may or may not be a poorly aligned or misguided financial incentive for the SVO itself in the event that it actually begins functioning as its own ratings agency and would essentially attempt to enter into the free market and compete against a regular Nationally Recognized Statistical Rating Organization (NRSRO) that's already in the market space. And I know we have talked about this, but for the benefit of many of my colleagues that are hearing this conversation for the first time, I do want to say that I sincerely appreciate our ongoing dialogue and the fact that you have responded to our comments very positively and many of the issues that we've raised have been taken into consideration and addressed. But I was just wondering if we could maybe begin the conversation with sort of a understanding of how this proposal has evolved from when it was first introduced and what the next steps might be as we go through this journey together.

Cmsr. Houdek stated that I know we don't have much time and we do have this item on the agenda tomorrow with more time so I can go into more detail at that point but given the limited time, I'll just touch briefly on the timeline as you mentioned and a couple things to mention. First, we definitely intend to still rely on the credit rating provider ratings (CRPs). There is no intention of having the SVO replace or compete with the CRPs. From kind of a process standpoint, there are a couple of different specific workstreams or initiatives that are underway with regard to kind of the CRP oversight or discretion. One, it's been in the works for a while under the Valuation of

Securities Task Force (VOSTF) where they're developing the multi-step process that you refer to for discretion if there is a need to potentially challenge a rating and how that process would work. And I know the appeal issue is a big issue. I actually just spoke with the chair of VOSTF yesterday and she informed me that they are still working with industry, working with other stakeholders to try to come up with a workable solution that's efficient and effective. They recognize that what's been out there now in the latest exposure is not the most efficient and they're still working to find a way to make that better. I know there was specifically to that proposal, a recent comment period exposure period that had ended. There were a number of comments that were received from various stakeholders. The members of VOSTF will be meeting I believe next month to really do a deep dive on where we are in terms of that multi-step discretion process that's been exposed currently and what comments have been received and what changes should be made before doing another exposure and providing another comment period. So, it's very much an involved process as we're working through this. Very much trying to be transparent, listening to stakeholder feedback and I would say it's great that NCOIL has been involved, and I would encourage continued involvement as we work through this process. So, that's the kind of the current ongoing SVO rating discretion issue under VOSTF.

Separately, but relatedly under the investment framework, one of the action items is to hire an outside consultant to help the NAIC and to help regulators develop a due diligence and governance framework for how CRP ratings are used as NAIC designations. And at the spring national meeting last month we received approval from the Executive Committee to move forward with developing an RFP to hire that consultant. And as part of that process we've committed publicly and we will continue to commit and be transparent about it through not just the process of developing the due diligence framework but actually developing the RFP itself. We will be reaching out to and communicating to the CRPs to get their feedback, their input and other stakeholders as well. And then once that RFP is developed we'll go back to get approval from our executive committee to actually issue that RFP with the idea being we'll bring in this independent outside consultant to help develop this due diligence governance framework that will essentially give us more comfort because the current model right now is a model where we have blind reliance on ratings from the CRPs that then track to NAIC designations. And part of the issue here with the concern about the rating accuracy and consistency is just kind of the broader what's driving the broader discussion around updating the regulatory framework that we use for oversight of insured investments, which is the increased complexity of the investment landscape that we've really seen since the great financial crisis. We've really seen it move towards more private assets, private credit, structured assets and just in general more complex assets. And that's been a challenge that we hadn't seen previously with regard to how the CRP ratings tracked the NAIC designations which then we used for our capital requirements in accounting standards. So, the intention is to continue to rely on the private CRP ratings but to create this due diligence framework that will give us comfort that the ratings that are coming out from the CRP's are consistent, are accurate and the credit risk is essentially being analyzed and assessed accurately so that as it tracks to an NAIC designation we as consumers of those ratings can feel comfortable with what that designation is and what that credit rating or what that credit risk assessment is.

Cmsr. Schmidt stated that I want to echo some things that Cmsr. Houdek said and express my appreciation to him because I sit on his committee and transparency is a big word for us and we're trying to be very transparent and I think that Cmsr. Houdek has done that. And I want to invite the interested parties to stay engaged with us because it won't be the last exposure that we have. I bet we go through a couple more. And it's a measured approach. And I appreciate all the interested parties that have responded to the previous exposures and know that they're going to keep coming and Cmsr. Houdek has done a great job navigating a difficult and complex item.

ANY OTHER BUSINESS

Rep. Oliverson stated that I did want to bring one small item to your attention and ask you if you've heard anything about it because it came on our radar screen recently and that is an effort at the federal level by the Federal Housing Finance Agency (FHFA) to work on a program that would essentially waive title insurance requirements for certain mortgage loans. That kind of scares us in a way, because it sounds like a brand new encroachment on the state based system of insurance regulation in a completely different area and may involve these federal entities acting as unauthorized insurers. We were wondering if you had heard of that.

Cmsr. Mulready stated that we have heard of it and I think even there was mention of it in the President Biden's State of the Union Address but it's something that we are very concerned about from a federal preemption standpoint. Eric Dunning is the Nebraska Commissioner who chairs the NAIC's Title Insurance Working Group and I've had conversations with him unrelated to this but at our Phoenix meeting, I chair the NAIC's American Indian and Alaska Native Liaison Committee and we had a session on tittle insurance and potential issues with the Native American communities across the country. But we don't have a lot to say about it now except that we too are concerned about it and will continue to monitor it.

Cmsr. Lawrence then thanked everyone for coming to Tennessee and stated that he hopes everyone is enjoying the conference and the city and state. There certainly is a concern about title insurance. That was maybe one of the more surprising inclusions in the State of the Union Address and it is something that certainly the NAIC is tracking.

Sen. Beverly Gossage (KS) stated that we were talking about some new issues that have come from the federal government and I was wondering if you all gave your public comments regarding short term limited duration plans and what the federal administration is doing there. Cmsr. Beard stated that for Indiana, we made a public comment on the proposed rule and also the final rule and we oppose any encroachment onto our state rights. And we have some innovative short term limited duration plans in our state. We have a state law that was enacted that put some consumer protections in place, but made it so insurers could offer some innovative products. And so, we are looking at how our current bulletin on some of the association health plans are affected and looking to see what we need to update in the state and we will continue to take the stance that the federal gov't is overreaching into the area of the Department of Insurances.

Cmsr. Humphreys stated that we in Pennsylvania joined with a few other states in support of the regulation and I can share that letter if anyone would like. Short term plans have been a significant challenge in Pennsylvania. A lot of my consumer representatives time is resolving consumer complaints where they thought they bought major medical insurance just to find out it was a package group of excepted benefit plans or limited benefit plans and they had very limited coverage. They had pre-existing condition exclusions. They had caps and maxes that negatively impacted the consumer's opportunity to seek healthcare services that he or she needed. So, we have had significant challenges with them. We've drafted our own legislation in Pennsylvania to try to regulate them further but we were supportive of the suggested limitations on the duration of short-term plans.

Rep. Peggy Mayfield (IN) stated that I know we're running late but I wanted to share this because there was a comment made earlier about financial literacy and how it's mostly banking versus insurance. As a legislator, I take every opportunity and I seek opportunities to go into the classrooms. I've volunteered as a substitute teacher at second grade, reciting the preamble of the Constitution, a 400 level class and at a school of environmental and public affairs at Indiana

University. This one day I spent with the senior class at a high school on advanced social studies and took Schoolhouse Rock about making the law. We do a lot of top-down, legislators making policy, regulators implementing – so many students came up with the idea of we need to know more about financial literacy. These are the students. So, don't mistake a lack of interest. These kids are sponges. And they want to know whether it’s homeowners’ insurance, credit cards, student loans. They are dying for information. So, I just want everyone to know that kids want to know.

ADJOURNMENT

Hearing no further business, upon a motion made by Sen. Gossage and seconded by Rep. Lehman, the Committee adjourned at 3:00 p.m.