NATIONAL COUNCIL OF INSURANCE LEGISLATORS
JOINT STATE-FEDERAL RELATIONS & INTERNATIONAL INSURANCE ISSUES COMMITTEE
2025 NCOIL SPRING MEETING – CHARLESTON, SOUTH CAROLINA
APRIL 26, 2025
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Joint State-Federal Relations & International Insurance Issues Committee met at The Francis Marion Hotel in Charleston, South Carolina on Saturday, April 26, 2025 at 3:15 p.m.

Michigan Senator Lana Theis, Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Mark Johnson (AR)
Rep. Brenda Carter (MI)
Sen. Paul Utke (MN)
Rep. Brian Lampton (OH)
Rep. Jim Dunnigan (UT)

Other legislators present were:

Sen. Jesse Bjorkman (AK)
Rep. Justin Wilmeth (AZ)
Rep. Brett Barker (IA)
Rep. Elizabeth Wilson (IA)
Sen. Donald Douglas (KY)
Rep. Vanessa Grossl (KY)
Rep. Robert Foley (ME)
Rep. Mike Harris (MI)
Rep. Jennifer Balkcom (NC)
Asw. Pam Hunter (NY)
Rep. Perry Warren (PA)

Also in attendance were:

Will Melofchik, NCOIL CEO
Anne Kennedy, NCOIL General Counsel
Pat Gilbert, Director of Policy, Administration & Member Services, NCOIL Support Services, LLC

QUORUM

Upon a Motion made by Rep. Ellyn Hefner (OK) and seconded by Sen. Mark Johnson (AR), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Rep. Brian Lampton (OH) 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 24, 2024 meeting.

PRESENTATION ON DEVELOPMENTS IN FLOOD INSURANCE AND STATE RESILIENCY INITIATIVES

Dana Sutton, AVP, Atlantic Region Flood Practice Lead NFP, thanked the Committee for the opportunity to speak and stated that I'm my company's flood practice lead. All our flood insurance that we write within my agency flows through me, and I'm very immersed in this space and interested in improving outcomes for folks post-catastrophe. I wanted to start today with this statistic. This came out of Aon's Climate and Catastrophe Insight Report for 2024. This is a report they put out every year based on the previous year's loss data and statistics and the report found that in 2024, the flood protection gap was approximately 75%, noting that flood remains an underinsured peril, as many property owners lack adequate insurance coverage despite the availability of flood insurance policies. There can often be a lack of awareness and understanding of the risk and this is really the sort of thesis of what I wanted to get at today and the crux of really my career here is this notion that we are missing the mark by 75% when it comes to insuring for flood losses. This is a chart that came out of that report illustrating economic losses on a global perspective and you can see that both Hurricanes Milton and Helene were number one and number two for 2024 in terms of global losses, which is pretty significant. Hurricane Helene became the costliest event of the year estimated at $75 billion in total direct property damage that doesn't even account for soft losses and sort of those intangible economic losses. That's probably an outdated number by this point. I suspect by now it's probably higher, but this was in early January when this information was available. It impacted Florida, as you know, but really that wasn't even the headline that came out of the storm. The headline was really what happened in western North Carolina with those folks out that way. These two graphs are cumulative global economic losses broken down by peril. So, that first graph on the left is economic losses in the billions and if you can see the peril of flood is that second line down from the top, that blue line, it's pretty significant in terms of billions of dollars of losses for flooding specifically. And then that graph on the right, that is the count of billion dollar flooding events since 2000. Again, it's that blue line that kind of crisscrosses at the very top there with the green line. So it's a really significant, steep rise in billion-dollar flooding events since 2000.

I want to go back to this and just mention that the flood insurance policies have a 4% uptake rate. And that's our issue. That's our problem with flood insurance. For every 100 properties I quote, I will write four of them. So really you might question the wisdom of someone doubling down in a space where you miss 96% of the time. But really it's an opportunity here to improve outcomes for folks. So, I guess the question then becomes "why do we have this 75% protection gap and only a 4% uptake rate?" And I really think a lot of that has to do with some of the unintended consequences of the National Flood Insurance Program (NFIP). I'm sure all of you know that program was implemented in the 1960's and was really a response to the insurance industry saying, "look, we don't know how to underwrite for this peril of flood, so we're just going to exclude it." And the federal government really wanted to continue the growth and development of these coastal areas, so they implemented the NFIP. They used flood zones as the rating methodology to rate and assess for risk, and cut to decades later, what that's really created is this belief in people's mind that you are either in a flood zone or you're not, and you either have a risk or you don't. And what we're finding, according to the North Carolina Center for Geospatial Analytics Department, that in fact, 84.5% of flood losses are occurring outside the special flood hazard area or outside the so-called flood zone. So, while there is this belief that "I'm not in a flood zone", in reality 84.5% of the losses are occurring where people believe they have no exposure and 51% of the population is two times more likely to have a one in 100 year flooding event than the current maps indicate - that's according to the First Street Foundation - and over eight million properties outside of the special flood hazard area are at a risk for flooding from rain which is largely unaccounted for when we talk about flood zones.

There's also very much this belief among policy holders that if your lender is not requiring you to purchase a flood policy that you don't have a risk so a lot of these subsequent federal lending regulations surrounding the mandatory purchase of flood have really led people to believe "oh my lender doesn't require it, I don't need it." And that's a massive hurdle for me as an insurance agent. I wanted to include a copy of this letter that one of my insureds received just this past

January. This is a client I've written their insurance for more than 10 years. I'm very familiar with this account and certainly consider myself their trusted advisor. They owned a home that was located in a special flood hazard area and had carried a flood policy on it. In December of last year, they were remapped into a preferred flood zone, which triggered this letter from their lending institution that says flood insurance is no longer required for your loan then it goes on to say “you're going to be responsible for paying the premiums. If we purchase the policy for you, we're going to cancel it. And if we had it paid from your escrow, we're going to quit doing that and you are now going to be responsible for making those premium payments.” This insured of mine very much took this letter as a message that they did not need the flood insurance. This home's worth about $1.5 million literally sitting in a swamp. They have tidal water on three sides of them and a pond behind them and their flood insurance premium was $800 a year. The $800 a year was not preventing anybody from going to the dentist or sending their children to school or even dinner out and no amount of explaining to the insured their actual exposure was enough for me to overcome this and they canceled their flood policy. So, that's a really tough conversation to be having. I don't have an insured that I felt more strongly should be keeping their policy than this account and I still could not convince them to do so. They also had incidentally about $1,200 worth of Risk Rating 2.0 credit on their policy that they also forego. So, by canceling the policy they wouldn't be able to get that credit back and if they needed to go back into the federal flood program at any time, they'd be going back in at the full risk rate.

Another one of those unintended consequences of the NFIP is a belief that the Federal Emergency Management Agency (FEMA) will step in and pay for losses, which probably blows everybody's mind sitting in this room right now. But I can tell you, as someone who considers myself sort of on the front lines of this, this is very much how people believe. I have a licensed insurance agent out of my South Carolina office that did not bother selling flood insurance to any of her clients because she thought FEMA would step in and pay the losses. So that's really, again, a tough narrative to overcome. When even a licensed professional is under that impression, it's tough to convince the general public otherwise. There's a belief that coverage is included on your homeowners policy. I think that's on us as agents for not adequately explaining that exclusion to people, but still very much a strongly held belief. Again, a misunderstanding of the definition of flood. Another problem we have is there's a misunderstanding of what constitutes an adequate limit. So, in the rare occasion when I am able to convince my insured that they should carry a flood policy, more often than not, the limit they are selecting is $250,000 on the dwelling and $100,000 in contents. It doesn't matter if it's a $20 million home or a $250,000 home, that tends to be what people are opting for. And I very much believe that's sort of a byproduct of that being the maximum limit that you can purchase within the NFIP - $250,000 might have been enough back in the 1960’s, but certainly under today's costs that doesn’t even come close for most folks.

And then finally, there's really been a lack of confidence within the private flood market due to the federal government's financial strength and stability. The fact that people feel really strongly that the NFIP’s not going to go anywhere, and that they will not default or go insolvent or be unable to pay somebody's claim. So, people are very hesitant to explore options within the private market because, by comparison, anything in the private market seems like a more risky option for people. So, despite all these challenges, and maybe the most frustrating thing for me is we do have a solution ready to go for most folks. For the overwhelming majority of people, the private market is a really great option, and there is a ton we can do within the private market space. It's growing rapidly. The surplus lines market has over $1 billion in flood insurance, most of which is on the commercial side, but certainly the residential side shares a portion of that as well. There's a ton of capacity within the private market, and there is a ton of capital in the space ready to deploy. I'm sure you all know, but many states have approved forms and rates for admitted private flood options, which is a really great option for people who are concerned about the solvency of the carrier and it also gives people a place to go if they're dissatisfied with a claims payout, they can appeal that at the state level. The private market also offers significantly broader coverages than the NFIP. So, in today's private market, we can pick up coverage for pools and landscaping and basements, loss of use, loss of income for commercial risks. There's just a ton of options right now in the private space for people.

And finally, probably my favorite part about what's happening in the flood insurance industry right now, there's been a lot of innovation within the private market flood space, even in the last five years. The use and implementation of artificial intelligence (AI) and newer technologies has really brought down barriers for us to be able to quote policies, issue coverages, bind coverages, service them, file claims. Those new technologies have done wonders in making that a significantly easier process for us. It used to be it was cumbersome and difficult to quote, and unless somebody was specifically asking you to do it, you likely weren't offering a flood quote. But with these new technologies, we can do it in a matter of seconds in many cases. I know AI is sort of a buzz term, and people are leery of it, as am I, and I think there's reason to be, but I also think there's a great opportunity here to leverage some of that to improve what we're doing. And then finally, parametric policies - this is a relatively new development as well something we mostly see on the commercial side and not a whole lot of utilization on the residential side. I hope it trickles down to the residential side and gains some teeth in the commercial market but that's a single payout policy where once a parameter is triggered a lump sum payout is direct deposited to the insurance account within 24 hours, zero requirement to adjust the claim or file receipts so it's a really great option for municipalities, large-scale manufacturing, things like that. Post-hurricane Helene this was a difficult hurricane season for us in the insurance industry this year. I'm physically located in North Carolina and the day after Helene hit, I probably fielded 60-plus phone calls from very desperate people, only about half of which were even my insureds. The other half had just heard I was the flood person and were just desperate for a solution.

Like I mentioned, $75 billion in direct losses. Helene was among the 15th costliest natural disasters globally since 1900. And what I find super interesting about Helene is that while it was a 1,000-year flooding event, it was not the only 1,000-year flooding event we saw in North Carolina that year. Two weeks before, Tropical Cyclone 8 hit the eastern portion of North Carolina. It hit a small geographic area but caused over $100 million in flood damages and was not even a named event. So, that's pretty wild when you talk about the severity and intensity and frequency of these weather-related losses occurring, two thousand-year flooding events within two weeks in the same state is pretty substantial. Incidentally, most of my insureds with Tropical Cyclone 8 were calling me saying, “the water didn't even get close during Hurricane Florence, so we thought we were fine.” And these were people that had four feet of water in their homes. With Hurricane Helene, I had an insured with 22 feet of water in their structure. This was actually my only insurance policy I wrote in western North Carolina. So, of all those phone calls that I took, I had one policy in force. And for most of those insureds, a policy for less than $500 a year would have gone a long way in making them whole again. Before the storm, we were seeing premiums as low as $185 in western North Carolina.

Eric Fosmire, Chief of Staff and General Counsel for the South Carolina Office of Resilience (SCOR), thanked the Committee for the opportunity to speak and stated that as you all are well aware, the insurance crisis as it relates to disasters is really a risk crisis. So, let me tell you a little bit about how we deal with risk at SCOR. This is our mission statement. I'm not going to read slides to you. I have quite a few slides, and most of them are meant for reference, so I'll move through these fairly quickly. But we do three things. We have a statewide resilience and risk reduction planning mission. We deploy the disaster recovery program for housing for the Community Development Block Grant Disaster Recovery (CDBG-DR) grants that come to South Carolina. And we also deploy hazard mitigation projects with a number of different funding resources that have come into the state. So, we actually implement projects. We do the strategic planning for risk reduction in SC. Our history was really born out of the three disasters that we had between 2015 and 2018. We had the 2015 historic flood. Our office was stood up as the disaster recovery office to deploy the housing recovery. We then had Hurricane Matthew in 2016, and then Hurricane Florence in 2018, and then, as you're well aware, most recently Hurricane Helene in 2024. As a result of that series of disasters, the Governor established a flood water commission. One of the recommendations of the flood water commission was to make us a permanent office as the Office of Resilience, and that's how we got started in 2020. In setting up our office, we were identified as the Office of Resilience but the legislature didn't define what resilience meant, which allowed us to apply our own definition, and this is it. It's the ability of communities to anticipate, absorb, recover, and thrive, when we're faced with disastrous impacts. So, I'd encourage you all to take a look at our website. This is our resilience plan. It's a data-based approach, a very collaborative approach, that we took to identifying the risks that we face in South Carolina from a range of natural disasters, primarily flooding. So, we used the highest quality data we had available. There was a high degree of coordination. We're looking at both natural systems and then also what happens in communities, not so much from a social standpoint, but from a structural and infrastructure standpoint. And one of the key principles that we addressed, and you'll see it in a map in just a minute, is that this is not a boundary issue. We approach this on a watershed basis.

If you look at the map at the top left, that's South Carolina, North Carolina, and we drain much of central North Carolina. So, in draining much of central North Carolina, we have to deal with all the water that comes through there. And to Ms. Sutton's point with Hurricane Helene, if it had been 30 miles more to the east, we would have faced the impacts of six feet of water in our cities that North Carolina was facing in Asheville and the rest of Western North Carolina. The eastern continental divide, most of the water fell on the western side of that, so all that water went through Tennessee and on to the Mississippi River. All of this water that falls on the eastern side of the continental divide comes down through South Carolina and the vast majority of it exits in Georgetown, South Carolina. And if you'll see the very tip of our watershed, it actually starts up in Virginia. So, this is not a South Carolina problem, this is a multi-jurisdictional problem and we have deployed watershed coordinators in each of those identified watersheds to work with local governments so that we're not solving a problem with one local government, and then creating a downstream problem for the other local government. Some places to just master the obvious, you want to speed up water and in other places you want to slow it down. We have identified in there all of the various planning conditions that we utilized. We looked at land cover, we looked at population. South Carolina is a net positive growth state from a population standpoint, although it's not growing evenly. Horry County, where Myrtle Beach is, is one of the fastest growing counties in the country. It's going to be net 250,000 people by 2030. That's a lot of homes. That's a lot of surfaces. The rolling map you see on the right is a screenshot of land that is being conserved in South Carolina in an effort to add some resilience in protecting watersheds.

I just call your attention to the top left. Ms. Sutton had used some data from First Street Foundation. We love their flood modeling. We used it in our risk reduction plan because it's way more accurate than the FEMA floodplains. That map is of downtown Columbia, South Carolina. The red and orange that you see in it, if you were to see it blown up more closely, is areas that actually flood in Columbia, and the purple and blue is the FEMA floodplain - doesn't even come close to identifying all the flooding issues, and it doesn't accurately account for both either pluvial or fluvial flooding. And it's just not a good resource upon which to base your insurance decisions. The middle map is all the properties in South Carolina that are at risk in a 100-year flood event of having at least a foot of water in their homes, if it's a concentrated event in their area. And it's over 300,000 structures. It is a high risk, and it's not just focused on the coast. It's a statewide issue. And again, you can see in the top middle map that's the entire watershed that we're dealing with. FEMA floodplains don't work for us. And so, we use the First Street modeling, which is an excellent resource. The other thing we're working on is better land cover analysis, knowing what structures, how many Walmarts do you have, how many parking lots do you have that lead to all of this runoff. And with every neighborhood that goes up, it's just more rooftops. And we're not anti-growth. We are in favor of growth, it's just let's grow smartly. Maybe not put the Walmart parking lot on the very best soil in the county, which can lead to infiltration. And it's just really simple decisions like that at the local level that can really add to that community's resilience. So, that middle red blob of stuff, that's downtown Columbia. The top data set is what we have right now. We're paying a little over $1 million to the National Oceanic and Atmospheric Administration (NOAA), which irritates me because our federal dollars already have paid for this data but nonetheless, we're paying to get one meter resolution so that we know what the land cover looks like and that will all be public information. All of our data that we have is available for free to local governments. It's up on our website. We have a resilience atlas. So, we're going to improve our land cover analysis for local governments.

On the disaster recovery side, I'll cover this very quickly. We've deployed three disaster recoveries successfully with no findings from the U.S. Department of Housing and Urban Development (HUD) which we're very proud of. We have repaired or replaced over 3,459 homes through those disasters. And we've learned some hard lessons along the way, but we have really commoditized the building of the new homes so that we can move quickly and efficiently. And as we go forward, we're making the homes more resilient by adopting the Insurance Institute for Business & Home Safety (IBHS) fortified standard, particularly as to roofing and continuous load path for the critical structures in the housing. That was to Hurricane Helene for South Carolina. It was more than triple the impact of the prior three disasters combined. We had more people register for FEMA assistance. We've had more counties involved. And the unmet needs are just incredible. It's $1.7 billion in unmet housing needs in South Carolina as a result of Helene. And we received the whopping sum and we are grateful for it but $150 million from HUD for our CDBGDR recovery. So, it's a pretty big delta between $1.7 billion and $150 million. And so, a lot of folks who are hurting are going to go unserved. I won't read that to you that just shows you the relative impact and we do understand that Congress had a difficult position last year as the data when they made their congressional allocation for the 2023 and 2024 disasters was not very well developed for all of Helene particularly in South Carolina and we came up very short compared to the prior disasters and the flood. On the far left, the CDBGDR funding covered about 38% of the unmet needs. On the far right for Helene it's 8% of the unmet needs, so what do we do about it? Let's make the housing better. Let's not put houses and people in the way of the disasters. Don't make mistakes of putting folks in known places where it's going to flood. It's really some basic things. Those are our funding for our mitigation projects. We're spread out statewide. We don't just sublet this out. We've got engineers and project managers who are actually running the projects. We have two cool projects here in Charleston. We're actually doing an environmental remediation of the USS Yorktown because it still holds fuel in it from 1974 when we accepted it from the U.S. Navy, and that's before they had any of the U.S. Environmental Protection Agency (EPA) cleanup guidelines. So, there's over 1 million gallons of contaminated liquids inside that beautiful ship, and we're cleaning it up as we speak. We've got crews there working seven days a week on a project that just started. It's a $128 million cleanup that started in January.

We also have in the bottom, that photo is the Ehrhardt Tunnel project here in Charleston. That's in the Medical District. The top left was really just a rainfall event in April 2024 which made those streets impassable. Down below is the result of the completion of that project. It's a deep shaft tunnel that connects to a longer horizontal shaft below the Albemarle which is clay that we sit on here in Charleston. And just gravity-fed, that entire project will drain about 1 million gallons a minute every three minutes when you have a major rain event. It takes care of much of the rain flooding that we have in the Medical District but not the rest of Charleston. And we deployed that project because there was just continuous flooding down the street from here in the Medical District. There's a pregnant lady that had to be carried in the bucket of a front-end loader to get to the hospital during a rain event because it was impassable. So, mitigation works. I'm sure you know there's a 13-to-1 return. From the legislative standpoint, the more you all can encourage mitigation and fund mitigation, your dollars pay off. If you haven't seen it, the U.S. Chamber last summer identified that it is a 13-to-1 return now. It used to be 7-to-1. They reanalyzed it, and it's now put at 13-to-1 in reduction of impact and savings. That's an evacuation route that in Highway 17 in Georgetown County reduced the flooding with larger outfalls and higher-capacity piping. Flood frequency, to Ms. Suttons point she made a few minutes ago, if you're in a 500-year flood plain, you have a 6% chance of your home flooding during the term of a 30-year mortgage. Go down to a 10-year floodplain, and you have a 95% chance of your home flooding during a 30-year mortgage. Those aren't really good stats. So, we need to build better. We're not saying don't live near water, but let's be practical about it. Don't put critical resources on the first floor of a building. Elevate the building. Charleston County, tired of dealing with flooding in areas, now will not issue a building permit for a slab-on-grade home, which is a wonderful start. That gives you at least a foot or so of crawl space where water can go if you have flooding in your neighborhood.

So, simply eliminating slab-on-grade, and I get it. It has its purpose. It's cheaper construction than erecting a foundation but it just puts you automatically at risk. I know you've seen this data, it's just you look at the last two years of 190 disaster declarations in the United States. It's not going to go away. And I say this because we're not climate hysterics. It's just the data is telling you what's going on, and we have to deal with what the data is telling us. And that's why our approach is data-based. We're not going to get into a debate about the causes of why all of this is occurring, but it's occurring, and the trend is not good. In probably early 1970s, there were only about five flooding days of tidal flooding in Charleston in a year. In 2019, they had 89 flooding days. And it's clearly due to sea level rise and some other things that we're having in Charleston. Charleston is sinking, and we have to figure out why, and we have to figure out if there's anything that we can do about it. If it's because of groundwater withdrawal for water systems underneath Charleston, then maybe we can redirect where we draw the water from. So, sometimes you can solve subsidence, sometimes you can't, because there are big pieces of geological movements that can't be solved by us right now. So, again, to Ms. Sutton's point, we saw in Debby, three out of four homes were outside of the flood zone. So, we have to identify, we have to deal with those risks. Our strategic resilience and risk reduction plan has a number of practical things that can be done to start to address those risks.

Rep. Brenda Carter (MI) stated that I grew up in Asheville and I'm very familiar with the French Broad River. What I didn't expect to happen in my lifetime is the devastation that happened from Hurricane Helene. Many of my family members are still suffering behind the impact of that hurricane as I speak today. I see this as an opportunity, but if you're familiar with Appalachia, we have a literacy problem and an economic problem there where traditional and historic ways of reaching people about insurance may not reach the ones who need it the most. So, my question is how can we convince people in historically non-traditional floodplain areas who are socioeconomically disadvantaged that just a minimum amount of flood insurance can help prevent the suffering we're seeing today? Ms. Sutton stated that's a great question and not one I have a great answer for, quite honestly. Part of the Risk Rating 2.0 legislation was aimed at trying to improve some of the outcomes for people that were more negatively impacted by these flooding events, but I think it comes down to education and I think, unfortunately, the federal lending regulations really play a role here. They really drive this narrative for people and that's a really tough hurdle to overcome. Whether you're disadvantaged or not, that message is not getting to people in general. So, as insurance agents, we are doing, at least within my agency, as much as we can to have this conversation. But if I had a dollar for every time somebody told me I'm not in a flood zone or my lender doesn't require it, we could all retire. I mean, it's just a conversation I have daily. But as far as how we reach those that might be more vulnerable, I don't have a great answer for that. I really don't. Education is the only piece I can come up with.

Ms. Fosmire stated that in our Disaster Recovery Program, we spent 100% in low-to-moderate income communities because of the rural impacts where those disasters occurred. And for folks that were in the floodplain, we paid for the first year of flood insurance thereafter. It doesn't solve it, but it at least gets them started down the path and might at least protect them for a year. But when you have folks that are faced with that difficult choice of medicine, transportation, health care, or flood insurance, it's an easy decision. It's not going to be flood insurance. So, there has to be some slight incentive, other than losing your assets, to help pay for that flood insurance. And that's why we paid for it for the first year in our program so at least there was a flood insurance policy in place at the time. We thought it would be a prudent thing to do. Ms. Sutton stated that I mentioned the parametric policies earlier, I have heard that some municipalities have considered purchasing parametric policies to help those in those types of situations so they would get a lump sum payout. And because there's no requirement for how that lump sum is used, they can use that money to help those who need it most.

Sen. Theis stated that to your point on the parametric policies, I don't know how that doesn't exacerbate the same concept as FEMA when it's government that's paying for it and you just have this assumption that they're going to cover it. Then why would you do it yourself is kind of the perspective from the other end that I'm taking away from what it is that you're saying.

Rep. Vanessa Grossl (KY) stated that we've experienced our fair share of flooding, particularly recently. You mentioned in your data how few people actually have flood insurance and when I speak with my constituents one of the main concerns is that there are these Acts of God clauses where people feel like even if they have insurance they won't get coverage and so I wanted to hear what you make of that and how can we truly protect our constituents. Ms. Sutton stated that I hear that a lot too. Certainly, there are exclusions in insurance policies and there always will be. I think that comes down to a discussion about how we define flood insurance and what is considered a loss. I heard that a lot after Hurricane Helene - would that have even been covered on most flood policies since mudslides are excluded on a flood policy? So that's a problem for the insurance industry as a whole I think. People are very skeptical of the insurance industry but most of what we experienced with Hurricane Helene would have been rectified with a flood policy in force so I think that just comes back to the insurance industry doing a better job of explaining to people what they are getting and what they're not getting within their policies.

Rep. Jennifer Balkcom (NC) stated that I represent Henderson County, North Carolina, which was hit very hard during Helene so I'm sure I had as many phone calls as you did. I will tell you, in North Carolina, we're looking at a state plan of flood insurance. I and some of my colleagues have been to Washington DC many times advocating for that. The sad part is FEMA is only paying $45,000 as a max payout for this disaster. That is not enough for many people to get their homes back. The thing that I've heard from a lot of homeowners is they were told they were not able to get a flood insurance policy because we lived in the mountains and why would we sell you that? I understand we have a lot of education to do and this disaster has brought that about. My thought is I would love some examples, and we can always take this outside, of how you can do a better job of educating and getting more insurance agents to be able to educate their clients and what we can do for that. Ms. Sutton stated that I would love to be a part of that conversation. I think that's why jobs like mine exist as insurance agencies and companies are recognizing that this is kind of a niche line of business and most insurance agents don't know it. Because I'm located in Wilmington, North Carolina that's where this expertise has sort of developed. I wrote a lot of flood policies and that's how this has kind of evolved. But you're correct and I'm really disappointed in my industry as a whole to hear that people were being told they couldn't get it. You mentioned the limitations within FEMA. I think that's a great opportunity for the private market to respond and I think we have a massive gap in needing to improve our messaging and help people to understand there's a massive risk out there that we're just pretending isn't there, and unfortunately they are finding out the hard way using flood insurance as a reactive measure rather than a proactive tool.

Rep. Robert Foley (ME) stated that with the large number of claims that we're seeing across the country dealing with flood, at some point in time, when are we going to have that discussion about spreading the risk over all properties and maybe including flood as a peril in all homeowner property policies to spread that risk over a larger number of policyholders? Ms. Sutton stated that I'd love for that to be the conversation. I don't think it will ever get there until those federal lending regulations change. I think we'll be sitting here 10 years having this exact same conversation until those federal regulations are updated. The NFIP has already acknowledged that the use of the flood zones is inaccurate. Risk Rating 2.0 did away with the use of flood zones. So, they have gone to this methodology of using modeling data to rate for flood insurance. So, your zone is not even a factor in your rate anymore. So, intellectually, they understand that the flood zones weren't cutting it but I think at this point it's a matter of political will. Nobody wants to be the one to start requiring more people to purchase a flood policy, but I think until that happens, as I was mentioning earlier, the objections in people's minds are almost insurmountable as an insurance agent. I am a trusted advisor to most of my clients, and no amount of showing them the data is enough to overcome, well, I'm not in a flood zone or my lender doesn't require it. So, I think until some of that starts to change, until the NFIP is no longer the backstop for everything, I think it's going to be a long road

DISCUSSION ON POTENTIAL FEDERAL TAX INITIATIVES IMPACTING INSURANCE MARKETS

Doug Lathrop, VP of Tax Advocacy at the American Council of Life Insurers (ACLI) thanked the Committee for the opportunity to speak about the upcoming congressional budget debate and give you my perspective on how the next few months may unfold regarding the big, beautiful tax bill and the potential implications for the insurance industry writ large. So, a couple weeks ago, the House passed the Senate-crafted budget. That's a significant milestone because it unlocks what is known as the budget reconciliation process. The budget reconciliation process at the federal level is a set of procedures that simply allows the majority, if it stays unified, to essentially sideline the minority party and pass legislation quickly. It was created in the 1970s as a tool to rein in spending, but it has evolved over the last 40 years, 50 years, to become this bludgeoning instrument that the majority uses to pass major policies. George W. Bush used it to pass his tax cuts in 2001 and 2003. President Obama used it to pass the Affordable Care Act (ACA). President Trump used it to pass his first batch of tax cuts, known as the Tax Cuts and Jobs Act (TCJA). And President Biden used it to pass the Inflation Reduction Act (IRA). Those are all pieces of legislation that really had nothing to do with cutting the budget. They most likely created larger budget deficits and implemented policies. So, that's where we are with the reconciliation process.

So, without delving into the nitty-gritty of how it works, the basic advantage of reconciliation is that it neutralizes all of the powers that the minority party has in the Senate, which is the real obstacle. So, you cannot slow a budget reconciliation bill down using the filibuster. It is filibuster-proof. It also has a timestamp to it, so it actually just moves along. There is nothing you can do to stop it if the metrics are met in terms of the votes. In an era of hyper-partisanship at the federal level, it's really the de facto method to pass big bills when one party controls all the levers of government at the federal level. So, this year, President Trump and the Republican Congress are going to use it to pass perhaps the most sweeping bill in recent memory, one that's going to enhance border security, expand energy production and exploration. Increase defense spending, and most importantly, cut taxes. While the other policies that are championed by President Trump and the Republicans are worthy of conversation and noteworthy unto themselves, the tax bill is really the centerpiece of this piece of legislation that they're going to consider. Now, we don't know what's going to be in the tax bill necessarily, but the contours are pretty visible. So, the first thing they're going to do is they're going to extend everything that expires at the end of the year that was part of the TCJA. That includes all of the individual tax measures. So, an increased expanded standard deduction, all of the rates, some important small business measures, that all expires at the end of the year. So, that is going to be a key component, if not the largest component, of this bill. Next, you have President Trump's priorities, such as no taxes on tipped income, no taxes on Social Security income. No taxes on overtime perhaps. And a new deduction for loans on American-made cars. Those are things that the President talked about on the campaign trail. He's continued to talk about these tax ideas while in office. I don't know if all or maybe just only some are going to be included in this bill, but some will, there's no doubt about it. In addition to that, most likely they're going to expand the child tax credit. There is bipartisan support to do that.

Now, depending on how you do your math, the cost of extending TCJA and all these new provisions could run anywhere between $6 to $8 trillion over the next decade. Now, here's where it gets a little tricky. A large chunk of those costs are just extending the TCJA tax cuts. Roughly $4.5 trillion. The Senate, to make things easier on itself, has essentially wished those costs away by saying extending current policy has no impact on the budget. That's a deviation from how they used to do it. So, they have decided to say current policy is the baseline we will use, so that takes $4.5 trillion off the table. Fiscal hawks are aghast, as you could imagine, and we'll see if the bond market believes this kind of magic wand, but for now that solves a big political problem. Now the other stuff may have to be offset, and that's where you're going to have to have either new revenue or much deeper spending cuts in order to accomplish this mission. And here is where the life insurance industry, and frankly all insurance, might be at risk. So, before I go there, I want to just go back in time briefly and talk about what informs the current posture of the life insurance industry. The 2017 tax bill was not like something we threw a parade over. The industry was actually targeted for roughly $25 billion worth of offsets, which were included in the bill to help drive the corporate rate down to 21%. One of the offsets was a substantial change in how life insurers are able to deduct for the reserves that they hold. Before 2017, life insurance companies could essentially deduct almost 100% for the reserves that they hold. These are statutory requirements that all the states mandate that we hold. And what the federal government decided to is we're going to haircut that. And instead of allowing you to deduct roughly .99 cents on the dollar, now you can only deduct 92.7 cents.

Now, you might say to yourself, well, what's the big deal? It's not huge, roughly 7%. Well, it applied retroactively. So, all the reserves that life insurers hold which amounts to, I think, close to $1.8 trillion, you had a haircut applied to that. So, that offset alone, and that is a permanent feature of the tax code, essentially wore away the benefit of the rate drop. So, I just talk about that briefly to say that's what informs the posture of the life insurance industry, because we were targeted. And sort of an editorial aside really quickly, insurance is state regulated, and rightly so, and that is a good thing. But when you have federal problems, because there's just a lack of familiarity with the business and insurance we oftentimes have to do twice as much education in terms of reaching lawmakers and explaining the business model and making sure you meet them where they are. And if you have gaps and if you have sort of misunderstandings they can oftentimes turn into big problems and certainly at the tax space with the two tax committees we saw that in 2017. So, the potential threat today actually is an unusual one and again something that's unique to insurance and there have been ongoing discussion at the federal level of eliminating or curtailing the deduction that companies can take for state and local taxes it's called SALT, you might have heard about it in the press. Where that would threaten insurance, and this is everything, health, property & casualty, as well as life, is inclusion of premium taxes in that calculation. So, we're talking not just income taxes. The debate, as it's moving along in furtive ways, we're trying to figure out what they actually mean when they say they want to eliminate corporate SALT. If they did that and actually included premium taxes, we estimate that would result in essentially a four- to seven-point rate hike at the federal level for carriers because we pay a tremendous amount of premium taxes, and we will continue to pay premium taxes. That won't go away. It's a cost of doing business. It's a gross receipts tax at the state level. So, if federal policymakers decide to do that, it would have a massive impact on the federal tax burden for carriers. We're doing our best, working with the property and casualty trade associations to try to educate lawmakers as to why it's a bad idea.

And again, a disproportionate sort of hit to the insurance industry, which most likely would result much later on, but would result in an inflationary impact. If you're going to put that in motion, you can't reprice old business, at least at the life insurance level. And so that would end up being born by new policyholders at some later date. So, we're trying to educate folks that this would have a really serious impact at a time where we're already struggling with inflation on a variety of levels. So, the next few months are going to be a pretty anxious period for the life insurance industry. We have largely adopted a position when we talk to lawmakers of just leave us alone and let us do our job, trying to remind them of how we responded during COVID, our critical importance as a source of capital in the US economy. My colleague Leah Walters mentioned in a previous committee yesterday the $3.8 trillion that we hold in high-grade corporate debt and how we are essentially a shock absorber and in times of volatility we provide financial security for 90 million American families at all stages of their life. And obviously we sell products that take away risk and provide a guarantee, which is a key component for middle-class economic stability. So, that's what we're trying to just drive things home. We're obviously taking nothing for granted. Hope isn't a strategy. And as Harry Truman said, if you want a friend in Washington DC, go get a dog. So you need to operate as if everybody has two faces in some respects, but we are working our best to try to ensure that this doesn't transpire, and hopefully this is something that we can put to bed at the end of this summer.

Rep. Jim Dunnigan (UT), NCOIL Secretary, asked Mr. Lathrop if he has a crystal ball on the enhanced marketplace subsidies? Mr. Lathrop stated that I don't have any expertise in that area of the insurance space.

DISCUSSION ON FEDERAL HEALTHCARE PROPOSALS AND IMPACT ON STATE SYSTEM

Bailey Reavis, Gov't Relations Manager at Families USA, thanked the Committee for the opportunity to speak and stated that Families USA is a leading national nonpartisan voice for health care consumers that for more than 40 years has been working to achieve a vision of a nation where the best health and health care are equally accessible and affordable for all. Today I'm going to talk about what health care changes and reforms are likely this year at the federal level, including changes around Medicare, Medicaid, private insurance, as well as some potential additional reforms. So, before diving into the specific policies, I wanted to quickly set the scene just about where we are with health coverage right now in America. We know that more people are covered than ever before. Since 2010, we've seen the amount of folks without insurance drop pretty dramatically, almost in half from 49 to 26 million. And year over year, we see that the ACA marketplaces continue to reach record enrollment this most recent year with 24.3 million. However, simultaneously, we see that families are still really grappling with the cost of health care, health care bills still just are really out of reach and leading to significant medical debt for families. We see out-of-pocket costs skyrocket and know that high drug costs and hospital bills are significant drivers of those costs. Additionally, it's not just the cost of the pharmacy or the hospital bill that are creating issues, but we're seeing year-over-year increases in premiums and deductibles, which is negative in and of itself, but we also know that these costs overall have a downward pressure on wages as well. So, we can see that the cost of healthcare is also driving down families' wages.

So, all taken together, we know that getting insurance is still the best way to reduce your health costs. And being in insurance, people are still paying significantly less than uninsured, so it's critical to protect these gains that we've made. But there's also a lot of opportunity and reforms that need to be made to really bring down the cost of care. So I wanted to start first with Medicaid, given it has a significant impact on states. Thank you so much to Mr. Lathrop for starting off with the reconciliation process and kind of giving a teaser on that. We anticipate most of the changes this year being made through Congress will be through this reconciliation process. As mentioned, there's a significant amount of tax cuts that Congress will be trying to move. And they can either increase revenue or they can significantly decrease spending. And we see Medicaid as a pretty significant area that they will plan to decrease spending. So, particularly true on the House side, where the House Energy and Commerce Committee, which is the lead committee with healthcare jurisdiction, they're requiring themselves, based on this framework that they've created, to cut $880 billion over 10 years. Again, that's a floor. They could cut more than $880 billion. That will be necessary if they end up moving any provisions forward that cost money. But at minimum, they have to cut $880 billion. So, as you can see from the chart that I included on the right, given that Republicans have pledged to not make any changes to the Medicare program, based on the jurisdiction of the committee, they can really only get that number by making really significant changes to the Medicaid program.

There are a number of proposals that we know Congress is considering that I want to touch on. The first being implementation of work reporting requirements. This is essentially just increasing the additional paperwork and bureaucracy that folks who are enrolled in Medicaid have to go through to prove that they are either working or seeking work while enrolled in Medicaid. This is despite the fact that 92% of the people who currently use Medicaid are working or are students. And those who are not are often disabled, ill, or caregivers themselves. The next reform that I'm sure the folks in this room are already more familiar with than I am would be elimination or reduction in state provider taxes. These are taxes that states levy on healthcare providers or entities, often including hospitals, nursing facilities, and managed care plans. All states except for Alaska finance some of their costs through these taxes, and approximately 17% of state Medicaid dollars are comprised of provider taxes on average. So, without these taxes states would have to cut the Medicaid spending by either lowering their payment rates to providers, cutting optional Medicaid services, this includes things like adult oral health coverage in Medicaid, or reducing program eligibility. The third potential change is reducing the federal share of Medicaid funding through the federal medical assistance percentages (FMAP) percentage. So, this also includes fully eliminating the FMAP bonus that states who have expanded Medicaid are getting. And this is not only deeply concerning for state budgets, but for at least 12 states, they currently have trigger laws in place. So, if you lower the FMAP percentage below a certain amount, those states automatically end their Medicaid expansion programs. So, it would be concerning for the budget, but it also means likely that overnight you'll see millions of people losing their Medicaid coverage.

And then finally, fourth would be eliminating some existing rules that were put in place under the last administration that essentially make the eligibility determination process less burdensome. Without this streamlined rule we see that it's likely families who are eligible for Medicaid are unlikely to stay enrolled just because they have to go through additional paperwork and process. And then finally it would be fundamentally restructuring the Medicaid program into block grants or per capita caps which would mean states get a certain amount of money each year regardless of how many people are enrolled or how much money Medicaid is costing the state that year. So, we expect that the Energy and Commerce Committee around May 7th will be putting forward the details of what they're planning to include but I just want to especially highlight that really of any of these reforms it's completely clear that they would have significant impact both on state budgets and also likely lead to millions of families losing affordable health coverage. Unless they go down a path of block grants or per capita caps it's likely that they will have to combine these provisions with work reporting requirements which we think are especially likely as that alone won't hit that $880 billion that they'll need to meet. So, they'll likely be looking at many of these provisions at once.

For private coverage, starting off with Rep. Dunnigan’s question about enhanced premium tax credits (EPTCs) we know that the tax credits are expiring at the end of this year. Those tax credits are relied on by millions of families to help reduce the monthly costs through the ACA marketplaces. As you can see from this chart I put up, the difference in what many families will be paying should these tax cuts expire for many families we will see their monthly premium costs double. We know that there is bipartisan interest in Congress to address these but we haven't seen action yet and this is a concerning ticking clock as they expire at the end of the year and I know many states are already putting forward work to announce your premium rates and the certainty of knowing these tax credits is a significant part of that process. Additionally, some other reforms that we think are possible from Congress, based on what we've seen from previous Congresses, is around association health plans (AHPs) or short-term plans. I'll note from our perspective, these plans often allow insurers to skirt requirements for comprehensive coverage so people who are enrolled in them are not as likely to get the affordable coverage they need when they go to the doctor. I'll also note that with short-term plans, because they essentially allow plans to opt out of a lot of the essential health benefit (EHB) requirements of the ACA, it also means they are not necessarily held to state requirements for things like EHBs so it also undermines state authority over some insurance plans. Finally, we know that Congress is likely to consider reforms about expanding the use of health savings accounts (HSAs) and I'll just note that expanding of HSAs often incentivize more high-deductible plans and often lead to plans with smaller employer contribution because they're higher deductible, making monthly and annual costs for families more expensive. And then just quickly touching on a few administrative priorities around private coverage. There was a rule that was actually recently proposed by the new administration on the ACA marketplace that had a couple of key pieces I just want to lift up. The first is mandating shorter enrollment periods. This is even true for states that operate their own ACA marketplaces. They will be required to follow the new enrollment dates, which I believe is November 1st through December 15th. They cannot have a longer one, which I know many states have utilized to help get more people enrolled. That rule also included language that essentially limits states' abilities to add additional coverages based on their population, your constituents. That includes specifically coverages for Deferred Action for Childhood Arrivals (DACA) individuals as well as gender-affirming care, so it's limiting state's abilities to control the health care that they think is best for their constituents. We also know that from the administrative perspective, there have been significant reductions in funding for the navigator program, which is key to helping families who are enrolling in the federal marketplace navigate through ACA and Medicaid enrollment. And then finally, we also know that there are some risks to changes in coverage for the preventative health services. These are essentially the required preventive services at no cost that insurers have to give through the ACA. There's a pending Supreme Court case Kennedy v Braidwood Management that could potentially limit or entirely threaten that program as well.

Looking at Medicare, there's not a lot of expected reforms, candidly, both the President and many elected officials throughout their campaigns made promises not to make major reforms to Medicare, so at this time we don't anticipate anything significant, but I just wanted to quickly highlight that the Medicare negotiation program, which was recently implemented through the IRA, has gone into place. The first round of ten drugs that have been negotiated, those costs go into place in 2026. And the second round of 15 drugs, that negotiation process has begun. And we don't anticipate that the change in administration will have any impact on that process. So, we'll just be continuing to ensure robust negotiation to lower costs, both for folks at the pharmacy counter as well as for the Medicare program itself. And then I also just wanted to note that there's been an uptick in bipartisan interest around addressing some abuses occurring in the Medicare Advantage program. We've specifically seen a rise in conversation around addressing overpayments and coding abuses that Medicare Advantage plans have been charging the Medicare program. For those that are unfamiliar these Medicare payments often cost the Medicare program billions of dollars every year. And we saw bipartisan interest in Congress with reintroduction of legislation as well as questions from both sides of the aisle around this issue during now administrative Administrator Oz's confirmation hearing. And he also remarked during that confirmation hearing that he was eager to take action on this issue. Additionally, I wanted to also highlight that we anticipate potential action around transparency in Medicare Advantage. This is especially true for things like prior authorization and supplemental benefits and just really getting an idea of what are the benefits and ensuring that seniors in Medicare Advantage are really getting the care and quality of care that they're paying for.

These no ware issues to kind of address underlying drivers of what's making healthcare costs so high. We know that there's been a lot of bipartisan interest on many of these reforms and actually several of them almost passed at the end of the last Congress and unfortunately just didn't due to nothing related to these provisions but some general larger dynamics at play there around the federal appropriations process. So, just quickly bucketing them, the first is through increased transparency, just getting a better understanding of what rates folks are actually paying at hospitals or pharmacy benefit managers (PBMs) are negotiating as well as getting an understanding of what hospitals are paying at outpatient versus inpatient settings. The second is same service, same price policy - this is just ensuring that if you have a doctor's office that gets bought by a large hospital chain that they are not suddenly charging additional or unnecessary fees. And then finally, this is really the piece that we think is most important to what is driving health care costs right now which are these anti-competitive behaviors that we're seeing across the healthcare industry either from hospitals consolidating into state driven chains or insurers vertically integrating with PBMs and pharmacies or to drug companies using the patent system to keep generic competition from entering the market. This is really what is underpinning so much of what's driving costs. And so just getting an understanding of how this consolidation is happening and taking action to really crack down on this consolidation we believe is extremely key to addressing these high costs.

Michael Cannon, Director of Health Policy Studies at the Cato Institute, thanked the Committee for the opportunity to speak and stated that I want to say a little bit on what is going on at the federal level and then give states a little bit of hope and an idea for how they can themselves make access to care better and more affordable and more secure, which is what we all want, even if we have different perspectives on how to achieve it. The federal government needs to cut health spending, and it needs to cut health spending dramatically in the near term, because if it doesn't, the federal government is going to hit a brick wall, it's going to hit a debt crisis, and when that happens it'll make any sort of cuts that Congress might be contemplating right now seem like child's play. The $880 billion that the Energy and Commerce Committee has stated, if they took all $880 billion out of the Medicaid program, that means that federal Medicaid spending, which under current law would grow at 4.5% per year over the next ten years, would instead grow at 3% per year. That's not a cut. This is hysterical, nonsensical, pearl-clutching propaganda by ideologues and an inefficient healthcare industry that wants to keep their sweet federal subsidies and keep providing people high-cost, low-quality care. If we don't restrain federal spending far more than what Congress is contemplating right now, then you're going to see work requirements for healthcare that are far beyond any sort of work requirements they're talking about right now. In other words, if you don't work, you won't get any healthcare at all, because you're going to have the federal government dramatically cutting Medicaid, because that's where they go first to make cuts. Poor people don't vote like seniors do. That's why Medicaid is on the chopping block, not Medicare. And then state legislators are going to take the blame when the federal money disappears, and states have to decide, okay, do I raise taxes on my constituents in order to keep these programs, to keep the payment levels and the enrollment and the benefits levels as high as they are? Or am I going to have to cut?   So, unless Congress gets together and does much more dramatic cuts than what they're contemplating right now, which aren't even cuts, then we're going to be in an awful place. The federal debt is 100% of gross domestic product (GDP) right now. Congress is adding another 6% of GDP every year. The main driver of that is federal health spending. Federal health spending is the largest category of federal spending, larger than the debt service, larger than Social Security, larger than the Defense Department.

And it's the only category of federal spending that is growing faster than GDP. So, that is the main driver of this debt crisis. Congress has to cut that. Now, you might think, well, those sort of cuts would jeopardize access to care for people. It would jeopardize the quality of care that people receive. Well, I would love to be able to tell you that the Medicare program and the Medicaid program do what its fans say and provide high-quality, low-cost care to enrollees. But these are wildly expensive programs that reduce the quality of care in this country. For example, the Medicare program, relative to other countries, is the most expensive part of the U.S. health sector, which is the most expensive in the world. So, I could do a little more doom and gloom. There's a lot of dispelling that needs to happen. But let me give states a little bit of hope about what they can do in a positive direction that would make health care better and more affordable and more secure. And to do that, I wanted to make a little detour to the German Democratic Republic (GDR). In the GDR, there is a compulsory system of health insurance where employers make payments into the system on behalf of their workers. It's really the workers' money, just like it is in the United States, but we pretend it's the employers. And Germany allows alongside of that a relatively free market for health insurance where people can buy lifelong insurance plans. Insurers can underwrite, which allows them to provide that sort of lifelong coverage where you don't lose your coverage if you get sick. Your premiums don't go up if you get sick. You can renew year after year. That aligns the incentives between the insurer and the insured so that the insured behave better.

Now you might think, well, if Germany allows that sort of market to exist alongside the compulsory system, won't all the healthy people go into that market? If you take a static one-year view, maybe. But when you take a longer-term view, the picture changes because those people who go into the individual market for health insurance, once they become sick, they don't want to leave their plans to go back into the compulsory system. They want to keep that guaranteed renewability protection. They want to keep the low premiums and the better access to care that those plans afford than, say, the compulsory retirement system does. And so to the extent you're keeping sick people out of the government program, that reduces the burden of that program on taxpayers. We can do the same thing in the United States which would align the incentives of insurers with consumers and provide higher quality coverage than ACA does, and do so at a much lower cost because the premiums for insurance plans, once you strip out all the ACA regulations, can be 70% lower for most consumers. But states can enact those reforms by themselves. I have brought some handouts that explain that in 2014, the Obama administration sort of gave a gift to states. It gave a gift to states indirectly by directly giving a gift to U.S. territories. It said to U.S. territories, "we know that we are imposing all these regulations on you, or the ACA creates all of these regulations, that would destroy your health insurance markets. We're going to exempt you from those regulations." The Obama administration did it by regulatory guidance, or a memo.

So, community rating price controls, EHBs, medical loss ratios (MLRs), single risk pool, guaranteed issue, and one other, all of the most expensive regulations in the ACA don't apply in U.S. territories. And what does that have to do with states, and how you can make health insurance more affordable and more secure? Every state has the power to remove barriers to entry into their health insurance markets for plans that U.S. territories license. At least one of those territories has much more liberal deregulatory rules when it comes to health insurance pricing than the ACA requires, the U.S. Virgin Islands. And if your state authorized for sale in your state, any health insurance plan available in any U.S. territory, the plans for the U.S. Virgin Islands could be available to all the employers and individuals in your state. Many of them could save 70% on their health insurance. They could buy guaranteed renewable lifelong policies that would stay with them between job changes and that would not create the perverse race to the bottom incentives that the ACA's community rating price controls create. You would also allow for more innovations like the type that UnitedHealthcare introduced in 25 different states in 2009 that fill the gaps in employer sponsored insurance by offering a very low cost product to people that says to them, when you leave your employer plan, you can enroll in one of our plans no matter how sick you got in the meantime and you'll still pay healthy person premiums.

There are all sorts of ways that competition in health insurance markets can make health insurance more secure and one of the handouts that I provided was a model law that Florida legislators introduced along these lines that would allow their residents to purchase any health insurance plan available in any U.S. territory. You have major insurance companies like UnitedHealthcare, Humana, Aetna, Cigna that do business in the territories and already have networks in your states. And you don't need Washington's permission in order to do this. I've heard from at least one large insurer that if this happened, they would definitely take advantage of that. And this is something that you can do to protect your state in case there are major cuts in federal health spending, forcing you to cut people loose from the Medicaid program, such as in the Medicaid expansion population, because those are the people for whom we need to get the premiums down the most. Those are the people living at the margins and scraping by and struggling to afford health insurance. The ACA is so expensive that Congress is offering subsidies of $12,000 to people making $200,000 a year. That is not affordable coverage. We need to make coverage more affordable, and it's within your power to do that.

Sen. Theis stated that since the Committee is running against its deadline, please seek Ms. Reavis and Mr. Cannon our after the meeting if you have questions for them.

INTRODUCTION AND DISCUSSION ON NCOIL HEALTH SAVINGS ACCOUNT STATE-FEDERAL REGULATORY COORDINATION MODEL ACT

Sen. Theis stated that last on our agenda is the introduction and discussion of the NCOIL Health Savings Account State-Federal Regulatory Coordination Model Act. You can view the model in your binders on page 133 and on the website and app as well. Before we go any further, I'll recognize Rep. Dunnigan who is sponsoring the model.

Rep. Dunnigan stated that I am very pleased to sponsor this Model. In 2023, NCOIL passed a Resolution in support of embedded provisions in state insurance codes to protect HSA qualified health insurance policies from certain state benefit mandates. What that resolution did in the simplest terms is encourage an amendment to state law to help ensure that when states adopt certain types of laws, they don't inadvertently cause people to lose access to their HSAs. Since then, in the last couple of years, we've seen this issue continue to pop up in state legislatures, so I think now is a good time to go a step further and craft a model law that we can provide to states that want to look to implement this type of policy. My home state of Utah is one of several states that have addressed this issue, and I think other states would benefit from looking at the model to help them through this process. I look forward to working with the committee this year on this.

Kevin McKechnie, Executive Director of the HSA Council at the American Bankers Association (ABA), thanked the Committee for the opportunity to speak and stated that states control what is in a health insurance contract. However, the federal government has assigned what a high deductible health plan is, and states have no role in that process. And so, this is a coordination amendment. You might think of it as a technical correction in some ways, meaning whatever is in your health code and whatever you decide to put in your health insurance plan is up to you, not me. And it's not up to the federal government. What a high-deductible health plan is, is up to Congress, and so what we're trying to encourage you to do is to adapt the kind of stuff that's in Oklahoma and in Utah and in North Dakota. All those states have done what Rep. Dunnigan has suggested so that you can't inadvertently disqualify people from their contribution eligibility to their HSA. And it's astonishingly easy to do, because all you have to do is say, well, you know what, we think there should be no cost-sharing on something, and it only has to be something that's not on the U.S. preventive care list, which already allows no cost-sharing for something like that. And so, this is, we think, a consumer-friendly amendment. We think it’s something that keeps people on the kind of health insurance they picked. And of course, it's not a marketing triumph to call something the high-deductible health plan, but that was 21 years ago, and we would call it HSA qualified plans now if we had to do it all over again, and that would feel much more palatable, I think to everyone.

Sen. Thies thanked Mr. McKechnie and stated that we will be further discussing this during the Summer.

ANY OTHER BUSINESS

Sen. Theis then stated that before we adjourn we have a couple of quick pieces of business to attend to. Sen. Kirk Talbot (LA) who unfortunately had to change plans last minute and wasn't able to make it down to Charleston, has offered up a draft letter from state legislators to Congress. You can find that letter on the app or website or in your binders on page 136. This letter expresses concerns with FEMA's Risk Rating 2.0 program and urges Congress to take action on the program and reform the NFIP. If you have any questions, please reach out to Sen. Talbot, me, or NCOIL staff. I'll also now recognize Mr. McKechnie again for our last item of business.

Mr. McKechnie stated that I would like to offer a quick update on disaster savings accounts (DSAs) which NCOIL recently adopted a resolution in support of. The concept is spreading like wildfire in the states and the reason it's spreading like wildfire is because as we want solutions to all the problems you heard today. With HSAs, we have tens of millions of people storing billions of dollars for things that haven't happened yet. And that's not true in homeowners insurance. And so, it will take time, but over time, legislators and states have recognized the importance of having people prepare themselves. With DSAs, they might be able to buy new base flood elevations certifications or buy foundation vents or things like that on a tax-advantaged basis. We want to encourage all of that, and states are very interested in the concept as we look at California, Iowa, Utah, Oklahoma, and New York. And they already exist in this state, they exist in Mississippi and Alabama, and we're hoping there's going to be a federal solution soon. It has a long history. We can go into it but we are running out of time. But the long and the short of it is the late Senator Jim Inhofe asked for this idea 11 years ago and it's taken some time to matriculate, but we're finally at that spot where crisis equals pragmatism. And we think we'll get somewhere this time.

Sen. Theis thanked Mr. McKechnie and stated that reading the prior committee minutes, some were looking at a friendly amendment to the resolution that would allow the DSA to pass through family members in the event of the account owner's death and I think that's a pretty good concept that we need to discuss also over the summer.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Carter and seconded by Rep. Lampton, the Committee adjourned at 4:45 p.m.