

NATIONAL COUNCIL OF INSURANCE LEGISLATORS  
 NCOIL – NAIC DIALOGUE COMMITTEE  
 2025 NCOIL ANNUAL MEETING – ATLANTA, GEORGIA  
 NOVEMBER 14, 2025  
 DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue Committee met at The Whitley Hotel in Atlanta, Georgia on Friday, November 14, 2025 at 10:45 a.m.

New York Assemblywoman Pam Hunter, NCOIL President and Co-Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Justin Boyd (AR)	Sen. Jerry Klein (ND)
Rep. Matthew Gambill (GA)	Rep. Tim Barhorst (OH)
Rep. Camille Lilly (IL)	Rep. Meredith Craig (OH)
Rep. Matt Lehman (IN)	Rep. Greg Scott (PA)
Rep. Michael Sarge Pollock (KY)	Rep. Tom Oliverson, M.D. (TX)
Rep. David LeBoeuf (MA)	Rep. Jim Dunnigan (UT)
Rep. Brenda Carter (MI)	Del. Walter Hall (WV)
Sen. Lana Theis (MI)	
Sen. Michael Webber (MI)	
Sen. Paul Utke (MN)	

Other legislators present were:

Rep. Carolyn Hall (AK)	Rep. Tim McGough (NH)
Rep. Naquetta Ricks (CO)	Rep. Garland Pierce (NC)
Rep. Elizabeth Wilson (IA)	Sen. Jeff Barta (ND)
Sen. Larry Walker (GA)	Asw. Catalina Cruz (NY)
Rep. Cindy Neighbor (KS)	Sen. George Lang (OH)
Rep. Sean Tarwater (KS)	Rep. Brian Lorenz (OH)
Rep. Mike Clines (KY)	Rep. Mark Tedford (OK)
Rep. Mike Meredith (KY)	Rep. Robert Foley (ME)
Rep. Shaun Mena (LA)	Del. Mike Rogers (MD)
Del. Mike Rogers (MD)	Rep. Matt Morgan (TX)
Rep. Robert Foley (ME)	Rep. Trey Wharton (TX)
Rep. Mike McFall (MI)	Rep. Cal Roberts (UT)
Sen. Jeff Howe (MN)	Rep. Barbara Dittrich (WI)
Sen. Bill Gannon (NH)	Sen. Cale Case (WY)
Rep. Julie Miles (NH)	

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. Tom Oliverson, M.D. (TX), NCOIL Immediate Past President, and seconded by Sen. Lana Theis (MI), the Committee voted without objection by way of a voice vote to waive the quorum requirement.

## MINUTES

Upon a Motion made by Rep. Brenda Carter (MI) and seconded by Rep. Michael Sarge Pollock (KY), the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 18, 2025 meeting.

## INTRODUCTORY REMARKS

Asw. Pam Hunter (NY) thanked everyone for their engagement and spirit of collaboration between the two organizations. She stated that it is important that we don't lose sight of this partnership we have and our overarching goals of supporting the state-based system of insurance legislation and regulation. She asked everyone in attendance to introduce themselves: Georgia Commissioner John King; Mississippi Commissioner Mike Chaney; Montana Commissioner James Brown; Oklahoma Commissioner Glen Mulready; and Washington Commissioner Patty Kuderer. Cmsr. Mulready echoed Asw. Hunter's comments and stated that the NAIC is grateful for the collaboration and the relationships that we have built and enjoyed in recent years.

## UPDATE ON NAIC ACTIVITIES RELATED TO ARTIFICIAL INTELLIGENCE (AI)

Asw. Hunter started the discussion with the NAIC's request for information (RFI) regarding possible development of an AI model law. When we last met, the NAIC was still reviewing all of the comments from the RFI and having initial discussions. Since that time, we understand that the NAIC has had some formal and informal meetings and discussions about what the best path forward would be, and it does seem that there might be a bit of an impasse as to what should be done. I think we're kind of feeling the same way here at NCOIL. I think that we're all kind of struggling to figure out what are we going to do relative to AI. But it's not going away so our respective organizations need to offer guidance for opportunities in terms of legislation and regulation.

Cmsr. King stated we've struggled with the scope of discussions, and the discussions have been all over the place, especially as we focus regionally and really on the impacts of AI. We know the AI tools and machine learning tools are already being quite widely utilized in this market. We want to make sure that we get the NAIC AI bulletin out which shows the proper uses of AI. We are going to be waiting to get more socialization of that bulletin out before there's really any serious movement for really recommending a model law. And we're, of course, very respectful of the role of legislators in this space so we're looking at working together with NCOIL to see how you all react in this space, because we want to be careful that we are not stymieing innovation but we also want to make sure that there's a human being involved in critical decisions, whether to deny a claim or fraud referral. And so we're very sensitive to that and I think that's why we're struggling. And of course, now the federal government wants to engage in this space as well and we're sensitive to that. Personally, I don't want to get ahead of our legislature and so we have a lot of discussions about that here in Georgia and we want to make sure that we're not rushing to failure.

Asw. Hunter stated across the country states are struggling with this and the technology is obviously moving much faster than the work that we're able to produce, either via legislation or by regulatory mechanisms like bulletins and we don't want to fall behind but obviously we want to make sure that we're having protections in place. Cmsr. King stated that as the form filings are getting more complex, we as regulators are having to develop AI tools to examine these forms because they're getting so big and so complex that we couldn't staff quick enough with the talent quality that's required to examine these filings without some assistance that machine learning can provide us. We're very sensitive to that very careful balance, and protection to the consumer is the primary focus but also making sure that we don't stymie innovation in the industry. Cmsr. Mulready stated I think the emphasis from many of the states as far as where to go next has been a pause and push forward with the bulletin that's out there. We've had 24 states that have put out the AI bulletin, and so I think we're looking for more widespread adoption of that bulletin before taking big steps forward.

Asw. Hunter than asked for an update on the NAIC's AI systems evaluation tool. Cmsr. King stated that the evaluation tool basically creates a set of principles that we can use to evaluate the use of AI tools to make sure that they don't cross any thresholds of discrimination or other improper things. We're inviting tech companies to come and deliver presentations to talk about what principles and what governance they have, and try to establish a common view of that. We can become more knowledgeable with these presentations on how the use of AI tools is being implemented.

Asm. Hunter asked if there's any uniformity that can be the baseline for something like that. Cmsr. King stated that's what the bulletin wanted to address. We wanted as regulators to tell companies these are our principles that we want you to be mindful of. As you create this, don't forget these are our principles in this bulletin. And that's why we wanted to push this bulletin out to as many states as possible so at least the industry knows what the examination tool is that we're going to be using to rate the proper use of these tools. Cmsr. Mulready stated I think that's the idea is to standardize that, and also there is an open meeting on November 19th where the new version of the evaluation tool will be unveiled.

Rep. Carter asked what is the status of the evaluation tool. Cmsr. Mulready stated it hasn't been implemented yet and it's optional for all regulators and is a way to have a standardized way to review those AI processes.

Rep. Naquetta Ricks (CO) stated Colorado is the first state to adopt policies to regulate the use of AI in underwriting. We're looking liability issues and there's been a lot of dispute back and forth between big tech and who is going to be responsible. But I think that should be a basis for what we're looking at - to see who to hold accountable if there's discrimination and to ensure that there isn't discrimination. But if it does happen, who do you come after as far as liability? Cmsr. King stated that we license insurance companies so those are the folks that we're going to hold accountable, not tech companies since we don't license tech companies.

Cmsr. Kuderer stated in Washington, we know that some of the insurers are utilizing tech companies in data gathering and if they're acting as a health care benefit manager by processing claims and that sort of thing, we do have the ability to regulate them. So, there is some nuance here when it comes to the tech companies. At my office, we formed an AI advisory board to look at how we can utilize AI systems internally. We're

already using some, but we don't want to get into the high-risk systems that the European Union (EU) has banned. But we also want to know how we can use it internally to improve our processes. We also need to know how it's being used in the industry and we don't regulate underwriting in Washington, but we do regulate the rates and we monitor that. And right now, based on our understanding, it's not being used in the rate setting. It is used in the underwriting piece. We're struggling with that as well, but I'm hoping that our AI Advisory Board will help give us some clear recommendations on how best to improve transparency when it comes to utilization of AI systems in the industry, because our charge is to make sure that it's not being used in a discriminatory way, and right now, I don't know that we have the tools to be able to determine that.

## DISCUSSION ON FEDERAL MATTERS IMPACTING INSURANCE MARKET

Asw. Hunter stated that when we last met in July in Chicago, we discussed the recently passed federal reconciliation bill and how there were so many questions relative to Medicaid, the exchanges, and other matters at that time. Here we are in November, a couple days removed from the longest shutdown in history, and we have maybe more questions. So, there's a lot to discuss here, but I'd like to hear your perspective on where you think things stand in states in terms of things like open enrollment and what you and the NAIC are hearing from consumers.

Cmsr. Mulready stated we continue to monitor everything and the NAIC sent several letters this year to Congress encouraging the extension of the tax credits and noting the impact that would have on our states if they expired. They were originally put in place in 2021 and then extended several times and here we are and what I have talked about was some type of a step down or gradual glide path of those as opposed to a hard cliff here come the end of the year. I think most states are estimating that if those are terminated as is, it could be up to 30% disenrollment in those states, and there would be a big ripple effect of that. I did an op-ed back in February and sent a letter to our state leadership talking about the ripple effect of that and everyone knows the premiums will go up for the individuals, but then also you have the uncompensated care that goes out to, at least in our state, an already fragile rural hospital system and so there's a lot engaged with that. I requested earlier this week that the NAIC send one more letter really just with the message that it's never too late to do some sort of extension of those tax credits because what we were hearing was that the open enrollment has already happened so it's too late to do anything for 2026.

We're trying to drive home that message that that idea is not accurate. It's certainly not ideal, it should have been dealt with eight months ago, but it is not too late. And so we will take a vote on Monday for that and hopefully get that out. The U.S. Senate Committee on Finance has scheduled a meeting for next week to discuss alternatives. It's an interesting mix when you talk about the federal exchange versus the state-based exchange. In Oklahoma, we are slowly moving to a state-based exchange to try to give us some more control. In Oklahoma, we've got a little over 300,000 people on the marketplace and in Georgia, they've got about 1.5 million on theirs. But if you're trying to make some decisions based on establishing a state-based exchange and the revenue that comes with that, you have to ask are we going to have two-thirds of the people enroll and two-thirds of that revenue? So, we have sort of slowed down our process.

Asw. Hunter stated when we were at our meeting in July, we talked a little bit about the rate increases that would be forthcoming - what percentages are you seeing and what

kind of guidance are you giving carriers? They're going to be coming asking you for rate increases, and it seems like they are asking for significant increases. What can the consumer expect January 1 based on where we are right now?

Cmsr. Mulready stated in Oklahoma, we're seeing a 29% weighted average increase. We're working a lot on education to the consumers about alternative plans like moving from a silver plan to a bronze plan, or even other alternatives off the marketplace or this perspective that having some type of coverage is better than no coverage at all.

Cmsr. King stated that if you ever needed a reason to start a state based exchange, this experience screams for it. It has given us the opportunity to be a lot more flexible and adaptable to be able to get insurance companies to put more options on the table for consumers. The rates had to be published a month ago and on October 1st, we let people go and window shop, not select a plan, but to start looking. And we're averaging about 20% in rate increases but we've been able to now offer more plans in other categories. You're looking at allowing agents to talk to the customer and ask, "okay, you used this much insurance last year so perhaps you are more suited for this plan." And so it gives us the opportunity to really market and not just react to whatever the federal government does. So we're in a lot better spot than we would have been had we stayed on the Affordable Care Act (ACA) exchange because we can control the marketing and we can give options to consumers to keep them in the marketplace, which is my focus and I want to make sure they're not just dropping all insurance and going to emergency rooms to get their health care provided, which is the most expensive, most inefficient way of delivering health care to our nation.

Cmsr. Brown stated in Montana, we're experiencing about a 21% increase. We have three carriers that participate in the federal marketplace, providing insurance to about 66,000 people and that seems lower than the other states, but you have to keep in mind that we're a small state so it is a significant portion of our population. Like Cmsr. Mulready, I also wrote an op-ed this summer urging Congress to extend the enhanced premium tax credits for two main reasons. One is to provide certainty to our insurance companies, at least through 2026. And then secondly, to keep insurance affordable for many working Montanans. I agree that there should be some kind of glide path if Congress decides not to move forward with the enhanced premium subsidies just to provide some certainty, both to the carriers and to the insureds. The second thing is an aspect that you would be interested in as legislators is there's a cost to our regulatory agency when the federal government engages in political showdowns like this because as the other Commissioners I'm sure would tell you is we've had to engage in about three rate reviews because of what's happening with the federal government doing rates with and without the subsidies. And then of course the litigation that's happening in federal court around the integrity rule has an impact not only on the workload for my staff but also the funding that's provided to my agency by the legislature.

Cmsr. Chaney stated the rate increases vary across the states based upon whether or not you're a state-based exchange or a full federally facilitated marketplace. Ours is 40.9%, and I know Louisiana's is 51% rate increase from Blue Cross Blue Shield on the ACA. So, what you have to look at as a regulator is what are the cost drivers? Why are the rates going up, and what do we do? And those cost drivers are things like pharmacy benefit managers (PBMs), which we don't regulate, and pharmaceutical matters. And you've got to understand that 35% to 40% of your premium is owned by the pharmaceutical companies. It's not the medical profession. And the doctors are now

being bought up by the hospital corporations and they control what they want on networks and that's a cost driver also. And it depends on what state you're in but we're looking at putting 66% of the people that are presently in the ACA exchange back into the uninsured market which means that you're going to have 200,000 plus people going into a hospital for uncompensated care and when that happens, the hospitals are going to close the emergency rooms if they can get away with it and you're going to end up with no care at all. You're going to end up with health care deserts. It's an issue that's got to be addressed different. The systemic risk really involves the risk factor and you've got to address that.

And back to the credits, we can't continue this model forever. Somebody's got to have some skin in the game and you can't continue giving free everything to everybody. Somebody's got to pay for it. So, we've got to have a glide path. I'm probably the only person up here that's going to say you've got to be careful of accepting the tax credits. We're just going back to where we were four years ago and you can get people, if you can educate them, to buy down into the bronze level and it's not good insurance, but it's better than nothing. Or we've got to open up high-risk pools, which most of you, as legislators, have killed. Not Texas and we didn't kill ours, so we've still got the ability but the problem is The Centers for Medicare and Medicaid Services (CMS) will not give you the 1332 waiver that you've got to have to open that up to provide health insurance to the people that really need it. It's a downhill spiral if we don't address it and you know who's going to catch the blunt of it? You are, as a legislator - you're going to be the ones that people are going to look at.

Cmsr. Kuderer stated we have, on average, a 21% increase. Roughly 7% of that is related to the expiration of the enhanced premium tax credits. We're going to see about 80,000 people drop coverage. Most of them will be strong and healthy. We're a prior approval state. When we asked the insurers about what their reasons were for the rate increases, they were pretty unified in four major factors which were: increased utilization which we're going to see if the enhanced premium tax credits expire; consolidation; PBMs; and the uncertainty coming from the federal level. I think we can all agree, no matter what side of the aisle you're on, that the system's not working. It's not working for patients, it's not working for providers, and it's not working for our rural hospitals either. So, there probably is a better way. We did an emergency rule earlier this year, premium alignment, that we hope will reduce that 80,000 number by about 35% if we're lucky. We are a state based exchange and the ACA allowing state-based exchanges and the enhanced premium tax credits reduced our uninsured rate from around 15% to under 5% which has really helped stabilize premiums to some extent in the state. So it depends on your perspective on how you look at the enhanced premium tax credits, but they've been working pretty well in Washington and I've been encouraging our delegation to work very hard to extend them. And we do need to figure out a better way. We're in conversations about 1333 waivers, and we've reached out to other states to talk about how states can work collaboratively to help make sure that folks can access health care because it's a good investment. We don't want people using the emergency rooms to get their health care, and it's good for the economy, too. So, we actually see an economic benefit from investing in those enhanced premium tax credits.

Cmsr. Mulready stated 1333 waivers allow the states to compact together which is what has been referred to. The fear with this is someone goes to the open enrollment and they go to see what's happening with their plan and they see that large increase and they bail out. And now the problem is next week something changes and something's

available to them and now we have to educate them to get them to come back in and take a look at that and to actually enroll. I think legislators can really help educate the public if something does change in a positive manner to help them enroll.

Cmsr. Chaney stated I think most of us would be very concerned if these tax credits go back to the insurance companies. They're using it as a profit center. They need to go back to the consumer and that's who we're trying to protect here. And this is going to take a lot of us working together to figure this out.

Rep. Oliverson stated I heard Cmsr. Kuderer say that 7% of the increase is due to the expiring tax credits. Is that standard for all of you? That's lower than I thought it would be. I think we have this impression that the big numbers we hear are all just because of these credits expiring but it sounds to me like the majority of the problem is still utilization and consolidation and the same factors that we've been dealing with for the last 20 years. Have we ever seen a year where we actually saw a decrease? I think we've had some level years. I was just curious if that's your experience across the country.

Cmsr. Brown stated it's 8% in Montana. You identified some of the primary cost drivers. For us in Montana it's provider inflation, double national inflation for what our providers are charging, and then specialty drug coverage are big factors as well.

Cmsr. Chaney stated that the factors that we see depend on what part of the country you're in. A lot of them are pharmaceutical benefits and we have more people demanding that they get a drug that costs \$60,000 or \$70,000 a year. We've started covering a lot of drugs for heart diseases, and then you've got the GLP-1s. You've got bariatric surgery and you put all of that together and those are cost drivers that drive you up. So, when you try to quantify what portion of this is due to providers and what's due to pharmaceutical and what's due to actual inflation, it's a combination of all of them. But tax credits accumulate and in a poor state, they're extremely high and ours are close to 27%. And so you're affected a lot. And on the political side, if Republicans don't fix it, they're going to lose the midterms. The blue states think they've got it now and they can fix this problem. I predict that we'll get some type of credit. We just hope that it will be a glide path instead of cutting them out.

Sen. George Lang (OH) stated I would like your response to my assertion that the ACA is actuarially designed to increase costs for the exchanges, and here's what I mean by that. We know for a fact if you have an actuarially sound health group, meaning you have 1,000 man-years in that group to do full underwriting, about 30% of the people with full insurance in that plan do not use their insurance policy at all. They're young, they're healthy, they don't even go to the doctor once a year. And insurance is designed so that those young, healthy people are paying into the system to support those old folks like me that are high utilizers of the system. And Pareto's law, the 80-20 rule, is real in insurance, but for insurance, it's even worse. In insurance, 4% to 6% of your people are 60% of your claims. You still have 20% of your people that are 80%, but it's 4% to 6% are driving the cost. And the ACA is designed with no preexisting conditions rules and young people today have no motivation to enter the exchanges. I have a 42-year-old daughter. She is uninsured. She said, "Dad, why should I be insured? As soon as I get sick, they have to take me, and they have to cover me." So, my assertion is the ACA is actuarially designed not to fail, but to drive cost up on the exchanges.

Cmsr. Mulready stated you've just identified the problem with the tax credits going away and the real concern, and with the person I just talked about, is the person in these last two weeks has logged on and seen the increases. They're young, they're healthy, and they're going to say, "I'm out, I'm not going to participate." And so, I think in a bigger picture way, we need to think about how do we engage young, healthy people and keep them in that pool. They are needed in that pool, as you've illustrated. And indeed, pre-existing conditions, they can come on without that. However, it also does have to be during the open enrollment. So that total loophole is somewhat closed. But you've identified the problem of how do we keep young, healthy people in the pool?

Sen. Paul Utke (MN), NCOIL Vice President and Co-Chair of the Committee, stated that one thing I haven't heard much of was legislative action. And when you come from a state like I do where they love to push the costs onto the insurance companies and others and just this last year they raised fees of over \$1 billion in the last budget on providers and that's going to drive up the costs because they don't absorb those. They've got to pass them on to us. And then the mandated benefits that have been passed the last few years have driven up the cost of per member per month by \$30. So we're hearing all the other things that come into making sausage out of this whole thing, but part of it is our legislators and what they're doing in their respective legislative bodies. And I know some of you are a whole lot better off than where I come from, but we are not helping the problem either. So, this gets dumped on the insurance companies' heads, and it's not all their fault.

Cmsr. Chaney stated we would agree with you on that, but our job is not to benefit the insurance companies. Our job is to protect the consumer and be a good regulator. We're not on the policy side. The legislators are. And what we need from legislators is good statutory law without mandates because insurance is based on risk. The premiums are based on risk and if the risks go up, rates are going to go up and premiums are going and consumers demand more service for paying a \$500 a month premium and then you want \$5,000 a month in benefit, that's not going to happen. That's not a sustainable model. And when you look at adverse selection, which we're going to, that just means that the healthy people are going to get out. The people that are left in the ACA are sick people. And you look at trying to establish a state-based exchange, it's hard to do that today because to make that exchange work, you've got to have some type of income. In Georgia's case there is 1.5% off the top. If you're new in this and you're using the facilitated marketplace to do your state-based exchange, you can't run it at that. The insurance companies are just a pass-through, and you've got to have everybody in the pool or it's not going to work.

Rep. Jim Dunnigan (UT), NCOIL Secretary, stated that intuitively, with all the media talk you'd think that without the subsidies, the piece of the increase would be much greater than what we heard. But as stated, the subsidies were taken back to where they originally were four years ago so it'd be a much higher piece if the subsidies were completely gone but we still have the original subsidies that came out. Regarding giving the money to the consumer, the consumer already has the money. They don't have to use it as an advanced premium tax credit. They can let it sit there. They can pay for whatever product they want, and they can take it on their tax return as an increased refund. But if we're going to give it to the consumer, many consumers are not sophisticated shoppers for health insurance. How are they going to have the mechanism to go and apply that to the policy different than what we have now? Can they use that money for something else such as a television or a trip somewhere? Even with a

penalty, they'll do that. Maybe you can't do that. But for 1332 waivers, it sounds like the federal officials are not going to approve those for risk sharing going forward. What about states that are already doing the waivers to do cost sharing? Do you think they'll be renewed or not?

Cmsr. King stated that our conversations with the federal government on our waivers have been pretty positive. They're willing to listen and look at them. They want the states to experiment and innovate and this administration seems to want to give that bandwidth for the states to take more of this and take it away from the federal government so I'm encouraged. We're looking at how we're going to develop our waivers for the renewal, but we've used ours very effectively and it's given us the latitude to be able to innovate and not be responsive to the noise from D.C. and actually take a little bit more control over our destiny.

Cmsr. Mulready stated in our state we don't have a 1332 waiver but we are looking into it. But I will say that the federal administration is encouraging states to be creative and innovative with 1332 waivers and 1333 waivers have been pushed pretty heavily by Peter Nelson, Executive Director of the Center for Consumer Information and Insurance Oversight (CCIO). So, there's a lot of creativity and flexibility being pushed out there. And regarding benefit mandates, any mandates that were passed post-essential health benefits were supposed to fall onto the states to pay for that. But that has not been enforced but there is talk that may be coming so that's something that you should be thinking about and sort of probably quantifying too.

Asw. Hunter then discussed developments surrounding the National Flood Insurance Program (NFIP). A result of the government shutdown was that the NFIP lapsed. That meant no new policies could be issued and existing policies couldn't be renewed until Congress reauthorized the program. This is obviously made worse by having this occur during hurricane season. And I suppose to no one's surprise, the NFIP was included in the recently passed spending bill, but it was again reauthorized on a short-term basis. Both of our organizations have long supported long-term reauthorizations of the NFIP to avoid situations like this. Needless to say, this is a terrible situation for everyone involved and we're curious, what has the NAIC been hearing from state insurance departments in terms of consumers reaching out to insurance departments about flood insurance? Has the private flood insurance market responded well to this? And do you think this will now finally motivate Congress to enact a long-term reauthorization of the program?

Cmsr. Mulready stated that we've had these short-term extensions 33 times over the last eight years and we have continued to push for a long-term reauthorization. I chair the Federal Emergency Management Agency (FEMA) advisory group for the NAIC and I had a call with FEMA and they were tasked this year by the President to take a look at all that and there is a report due back in December on that. There was a call in September that I was on with them and they were having a round table meeting at the White House on September 30th. I was not able to attend, but a handful of NAIC representatives were there including NAIC President and North Dakota Commissioner Jon Godfread and our team's focus was on long-term reauthorization of at least 10 years and to encourage private market growth. A number of our states have seen some good growth in the private market of flood insurance, but certainly we would like to see more of that. The issue is if someone moves to the private market for flood insurance and then tries to go back to the NFIP, they're basically penalized for that because they're seen as though that coverage lapsed. But it didn't lapse. They went to private coverage. So, that's a

loophole we'd sure like to see get fixed. Mitigation incentives was another focus as well as mapping and modeling and investing in that. And then just more consumer education is always needed with the NFIP. I think in all of our states there is a very low percentage uptake on flood insurance. There is a big question about FEMA funding and I think there's thoughts of things we push down to the states but does that mean responsibility and funding, or does that mean responsibility with less funding? That's an unknown right now. I've had two meetings with our emergency management team trying to plan ahead if funding is cut substantially, what do we do and what do our towns and communities do? And specifically in our case, it's about infrastructure. There is insurance coverage for their buildings and their property and their liability, but what about when a road or bridge gets washed out and there's no federal money coming to replace that?

Rep. Matt Lehman (IN) stated the issue is this is not working, period. Even extending it for 10 years is not going to work. The NFIP is \$20 billion in debt and if you remember back in 2017, they were \$16 billion in debt and they wiped it clean. So, if you wipe it clean again and start over, where are they going to be 10 years from now? The issue is you've got to get people in a room who say we have to find a long-term solution that does not involve the federal government being dollar one. That does not work. I think after September 11, 2001, the industry came and said "we can't handle another terrorism claim" and what came out of that was the Terrorism Risk Insurance Act (TRIA) and they said we'll absorb a box of this but after that, they've got to take the risk. Why is that not a model being looking at with flood? The industry can underwrite this if you give them a cap but when you give them a \$10 billion exposure, it's going to be very difficult. So you've got to come up with some solutions beyond a long term reauthorization extension. Florida has one of the most aggressive private flood markets, and it's not working. And you talk about people not affording health insurance, they're going to walk away from flood insurance. And now you've created a massive lending crisis as all this is tied together. But I think we as legislators need to get a hold of our Members of Congress and say stop extending something that's a broken system to begin with. It's not working. Cmsr. Mulready stated that he agrees 100% and from my notes from that mid-September meeting, that debt is \$26 billion. They also talked about addressing the 5% of policies that have repetitive losses. But to your point, it isn't working and I think TRIA is a good model for them to take a look at.

#### DISCUSSION ON UPDATES TO RISK BASED CAPITAL (RBC) FRAMEWORK

Asw. Hunter stated that we're aware that the NAIC has undertaken a major overhaul of its RBC framework with the goal of modernizing solvency oversight. It's a big change that will have a significant impact and we're curious what led to the decision to make these changes, what the comments have been like, and what the timeline looks like to finalize your work.

Cmsr. King stated that one of the factors that we started looking at is investment companies and looking at how they're investing in insurance and so that really was the impetus for the NAIC to start looking at how we treat investment. We were traditionally looking at RBC and looking at how money is collateralized to handle risk but when you have Bitcoin and all these other investment vehicles coming in, we have to look again at how we assess the capital to be able to pay claims. And so that's what's caused NAIC to take this up. We have some incredibly talented commissioners and staff looking at how do we see all these investment systems who are now playing a part in insurance and how do we collateralize? How do we account and how do we audit it? Because the

hardest part of what we're facing is as state regulators, how do we go into a company to audit what assets they have available to pay claims?

Cmsr. Kuderer stated that I actually sit on the NAIC's RBC task force and I can tell you that based on my understanding, there were some requests from the industry to look at the RBC methodology to determine if it needed to be updated. I think it's good to review formulas over time because things change. That was really kind of the impetus behind it. And there's been two public comment periods. We just finished the second one, and the second one we narrowed down what was being looked at in terms of RBC. The main thing was that they wanted to keep it tied to solvency and not include whether or not this is going to impact new product ideas and things like that. There was a lot of uniformity around that should not be included because of what RBC is all about. But the nine proposed principles emphasize the updates to RBC levels. We've recommended these. This was on the second public comment period. But they needed to be material which is the threshold at which an RBC update could meaningfully impact a regulator's assessment of solvency risk. They have to be objective. They have to be accurate and grounded in statutory accounting and reserving and transparent and reflective of equal capital for equal risk and inclusive of emerging risks and subject to a clear and repeatable process, and prioritized. So, those were the nine principles that were emphasized in the second public comment period. We only got eight comments on those, and I think at this point we're going to be taking it up at our fall meeting to make a decision one way or the other.

#### DISCUSSION OF NAIC'S AFFORDABILITY AND AVAILABILITY PLAYBOOK

Asw. Hunter then turned the discussion to the NAIC's development of an affordability and availability playbook. The playbook aimed to help state regulators address the growing homeowners insurance crisis. We're all feeling that now. Developing the playbook is a big undertaking as the affordability and availability crisis is complex and as we know there unfortunately isn't one single reform that can be enacted to fix everything. Can you provide us an update in terms of what the development has been like, the proposed timeline for finishing it and if it will be accompanied by any NAIC model legislation or regulation?

Cmsr. Brown stated I sit on the NAIC's property and casualty insurance committee and certainly we have heard today about affordability but the one thing that we haven't touched on is availability. All of us as regulators want to make sure that there's plenty of coverage in the market to make sure consumers are able to get insurance in the first place. The western part of Montana is heavily timbered and we are hearing of insurance companies non-renewing policies because of perceived wildfire risk. The playbook is designed as I think has been explained to assist you as legislators and us as regulators with messaging and addressing affordability challenges. We did release a revised outline for this document in October and we encourage you to take a look at it and there's some good information in there that you can use to communicate with your constituency, and hopefully we'll adopt a finalized version of this when we have all our fall meeting.

#### ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Lehman and seconded by Sen. Utke, the Committee adjourned at 12:00 p.m.