

The Academy Capitol Forum: Meet the Experts



NCOIL: Impacting State Insurance Policy

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National Conference of Insurance Legislators (NCOIL)

Legislators working together for sound insurance public policy



Rep. George Keiser (ND), NCOIL Past President

Moderator: Nancy Bennett, MAAA, FSA, CERA

Senior Life Fellow

American Academy of Actuaries

What is NCOIL?



- Legislators working together for sound insurance public policy
- **All states** are NCOIL members.
- NCOIL helps legislators make **informed decisions** on issues affecting their constituents.
- NCOIL **opposes federal encroachment** of state authority over insurance, authorized by McCarran-Ferguson in 1945.

N C O I L

National Conference of Insurance Legislators

...for the states

NCOIL Purpose & Goals

NCOIL seeks to:

- educate legislators in order to establish sound insurance public policy
- provide balanced perspectives on issues to enable informed decisions
- voice state legislators' views to Congress, regulators, executive branch, and other state and federal agencies
- preserve state authority over the regulation of insurance
- reform state regulation, when appropriate



How Does NCOIL Do It?

Provides legislators with a national forum to:

- share views on emerging and perennial issues
- compare legislative successes and failures in states
- hear balanced testimony from interested parties
- develop positions and model legislation



Educating Legislators: At Meetings

NCOIL educates legislators by:

- **hearings and panel discussions providing pros and cons on issues**
- **workshops run by academics and experts**
- **luncheon speakers and debates on critical issues**
- **legislative roundtables for exchange of ideas**
- **balanced input from interested parties**
- **committee and special meetings on model laws**



NCOIL Committees

■ *NCOIL Committees reflect differing lines of insurance:*

- Financial Services & Investment Products Committee
- Health, Long Term Care & Health Retirement Issues Committee
- International Insurance Issues Committee
- Life Insurance & Financial Planning Committee
- Property-Casualty Insurance Committee
- State-Federal Relations Committee
- Workers' Compensation Insurance Committee

■ *NCOIL Task Forces:*

- International Issues Task Force
- Unclaimed Property Task Force



NCOIL Process

- **Issues brought to NCOIL Committees** from interested parties
 - legislators, regulators, consumer advocates, insurance reps, associations. . .
- **NCOIL Committees review** issues, declare interest, add to charges.
- **Committees may develop model legislation**, a resolution in support/opposition, send letters to Congress and other entities.
- In order to be considered, models, etc., **must be sponsored by legislator.**
- **Committee will hear all sides of issue.**
- **NCOIL models, resolutions, etc., eventually go to Executive Committee** for a vote to adopt/amend/decline.
- **Models, etc., are sent to insurance committees in state legislatures.**
- **State legislatures review, adapt, and adopt models as they wish.**
- **NCOIL models, etc., are considered to have merit due to inclusive and transparent vetting and development process.**

Success of State Insurance Regulation

- State insurance regulation works well—and is **NOT** in need of federal reform.
- States are **best equipped** to regulate their own markets.
- States have **expertise and experience**, developed over time.
- State efforts are **more informed** than federal efforts.
- State responses are always **more immediate**, as they are nearer & dearer.
- States have a **good track record**, as compared to some federal programs.
- States are **making strides to modernize** and achieve uniformity, where needed.
- States **continue to improve** regulation.



Success of State Insurance Regulation



■ Even detractors cannot deny that:

- Six U.S. states—California, Florida, Illinois, Pennsylvania, New York & Texas—are in the **top 20 insurance markets globally.**
- In terms of market share—the U.S. represents **a third of all premium volume in the world.**

Federal Initiatives

- So-called “federal insurance reform” should not be tied to bank, thrift, and securities reform—as insurance regulation did not cause the financial crisis.
- Yet in the last few years, the Feds have introduced more legislation to regulate insurance than in the last few decades.



Consumer Financial Protection Bureau (CFPB)

- Dodd-Frank created CFPB as an independent federal agency to protect consumers by carrying out federal consumer financial laws.
- NCOIL urged Congress to exclude from CFPB any insurance—including credit, mortgage, and title.
- The “business of insurance” is specifically excluded from CFPB jurisdiction.
- But CFPB may exercise authority when there’s nexus in sale of insurance and provision of financial products/services, such as in title, mortgage, consumer credit, and force-placed insurance.
- The CFPB is also exploring areas of senior financial designations, which primarily affect the annuities industry.



Federal Insurance Office (FIO)

- FIO was created by Dodd-Frank Act in 2010, was **not given direct authority over insurance.**
- FIO was given authority to
 - consult with states, monitor ins. industry
 - monitor access/affordability
 - recommend insurers for heightened supervision
 - help administer Terrorism Insurance Program
 - coordinate/develop international ins. policy
 - represent U.S. at International Association of Insurance Commissioners (IAIS)
 - determine preemption of state laws by international policy
 - submit reports on state of US insurance industry, how to modernize U.S. regulation...



Federal Insurance Office (FIO)

- *NCOIL continues to dialogue with FIO.*
- Concerns have been expressed over “mission creep” and transparency and accountability.
- FIO released December 2013 modernization report.
- The report recommends a “hybrid” system of state and federal regulation.
- The report recommends state near-term reform—solvency oversight, principle-based reserving, captives. . .
- The report contains recommendations for direct federal involvement in, among other things:
 - covered agreements for reinsurance collateral
 - regulation of mortgage insurance



Federal Insurance Office (FIO)

What NCOIL is Doing

- Sent a Dec. 2013 letter to the U.S. House Financial Services Committee Housing and Insurance Subcommittee, saying:
 - state regulation was **successful** during financial crisis
 - NCOIL has formed an **International Issues Task Force**
 - and requested support for state policymakers **place at the table** in federal-level insurance discussions
- Continue to monitor FIO activities/reports, e.g., an April 10, 2014 FIO RFC on **availability and affordability of auto insurance**
- Continue to press for FIO-NCOIL formal meetings, as agreed-upon.
- After NCOIL urging for **state lawmaker participation**, Rep. George Keiser, NCOIL Past President, in August 2014 was appointed to **21-member FIO Federal Advisory Committee on Insurance (FACI)**.

NCOIL Unclaimed Property Model

2011 NCOIL *Model Unclaimed Life Insurance Benefits Act*

- requires insurers to **semi-annually match** Social Security Death Master File (DMF) records with in-force policies/retained asset accounts
- **exempts credit life**, accidental death policies, pre-need funeral contracts and ERISA/federal employee plans
- calls for **timely insurer efforts** to
 - confirm an insured or account holder's death
 - locate any beneficiaries
 - provide claims forms and instructions
- outlines—if benefits go unclaimed—a process for insurers to notify state treasury departments and to **escheat the funds**
- since adoption the NCOIL model has been **enacted in fifteen (15) states**—AL, GA, IA, IN, KY, MD, MS, MT, ND, NM, NV, NY, RI, TN, VT—and is **pending in six (6) others**—IL, LA, MA, NC, OK, PA—in 2014 legislative sessions.



NCOIL Unclaimed Property Task Force

- *Task Force updating model to reflect the current climate.*
- Task Force has determined to
 - retain **retrospective** provisions of the model
 - require **semi-annual use of DMF**, full use once/updates after
 - retain an exemption for **preneed** funeral contracts
 - not add an exemption for active premium policies
 - clarify model application to **annuities and retained assets**
 - add procedures for **“fuzzy logic”** & allow for additional NAIC criteria
- Task Force will
 - review **ACLI/NAUPA-NAST definitions** of annuity/retained asset, etc.
 - review NE/WI Ins. Dept. language re **“commissioner discretion”**
 - Review **“guiding principles re constitutionality”**
- An NAIC Life Insurance & Annuities (A) Committee 2015 charge to **develop a new NAIC model law** to address the issue of unclaimed death benefits just was adopted on October 28.



Principle-Based Reserving (PBR)

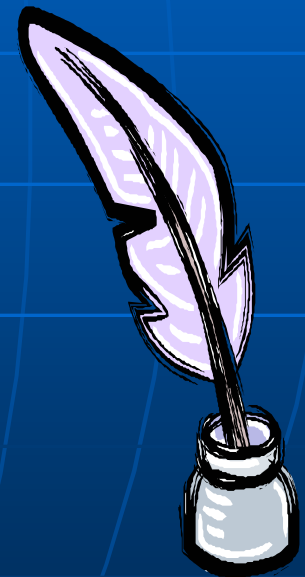
- NCOIL has been:
 - discussing **PBR pros/cons** with key regulators, actuaries, and others for several years
 - looking at whether PBR flexibility might let some insurers hold too little **money in reserve**—or whether it’s just a matter of “right-sizing” for each company
 - looking at **role of captives**... Are life insurers using to reduce how much the insurers must have in reserve—while still carrying the same amount of risk?
- NCOIL believes that balanced discussion is vital and is working to educate state legislators, who are asked to enact PBR in states.



Principle-Based Reserving (PBR)

What is Required

- NAIC Standard Valuation Law: 42 states—representing 75 percent of total premium volume in U.S.—must pass PBR for it to become effective.
- As of June 2014,
 - 17 states—or 23.8 percent of premium volume—had passed PBR or had bills on the governor's desk
 - 13 other states said had plans to introduce PBR in their next sessions
- If all 13 enacted it, then PBR would have passed in 30 states with 60 percent of premium.



Pension De-Risking

- *NCOIL exploring how to protect retirees when pensions transfer to annuity providers regulated by states.*
- In early 2014, we began looking at a draft model law requiring:
 - regulator okay for de-risking transactions
 - mandatory retiree disclosures
 - equal creditor protections
 - opt-out and lump-sum options
 - reinsurance/third-party guarantees
 - regulator okay for subsequent transfers
- *The goal: Ensure that retirees with de-risked pensions are protected similar to the ERISA safeguards they had before de-risking.*



Pension De-Risking: *Where We Are Now*

- *The proposed model has been highly controversial.*
- Concerns include:
 - possible ERISA preemption
 - how certain regulatory okays would play out
 - impacts of opt-outs and lump sums
 - what disclosures are appropriate/possible
- *Interested parties in ongoing negotiations over possible compromise—now thinking that **best practices** may be better than a model.*
- While we take fresh look at issue, Sens. Ron Wyden (OR) and Tom Harkin (IA) on Oct. 22 wrote Treasury & Labor Depts., CFPB, PBGC urging “clear and specific” federal pension de-risking rules—**pointing to importance of issue at NCOIL.**



Flood Insurance

- *All states hit by floods—so accessible, affordable, financially sound coverage is vital around U.S.*
- NCOIL believes
 - flood risk too much for private market, limited federal role is okay (like terrorism)
 - dealing with flood/natural disaster risk needs to be multi-pronged: mitigation needed (NCOIL 2007 *Model State Uniform Building Code*, 2007 *Resolution Regarding State Land Use Policy*), private market whenever possible, government involvement as needed.
- Regarding NFIP, NCOIL:
 - works with FEMA—including 2002 Legislators' Guide to Flood Insurance—to educate states and evaluate reforms
 - passed November 2013 resolution supporting temporary delay of some Biggert-Waters Act rate hikes—so FEMA could study impacts
 - passed July 2014 resolution supporting HR 3989 (natural disaster savings accounts) and other long-term ways to confront risk



Terrorism Insurance Program

- *NCOIL believes there could be serious economic harm if Congress doesn't reauthorize TRIA before Dec. 31 expiration.*
- We urged Congress to pass a terrorism backstop in 2002 and called for reauthorization several times since.
- Without a backstop:
 - terrorism coverage could be unavailable
 - commercial, real estate, and other business could suffer
 - workers' comp could have big problem—since it must cover all work-related injuries, no matter the cause
- It's true... NCOIL opposes federal intrusion into insurance.
- But like floods, terrorism risk is a unique, and a limited federal role is appropriate.



International Initiatives Impact the States

- *As guardians of state insurance law, we know that international dialogues can affect the laws we make back home.*
- NCOIL believes global initiatives can threaten tried-and-true U.S. system.
- **Global insurance capital standards** developed by the IAIS could conflict with U.S. accounting rules designed to protect policyholders
- **ComFrame**—an IAIS/ Financial Stability Board (FSB) broad **global supervisory system** creates **prescriptive, bank-centric rules** for internationally active insurance groups.
- **Solvency II**—EU Commission is deciding if U.S./ non-EU countries regulation is **equivalent**. Negative consequences if deemed non-equivalent.



International *What NCOIL is Doing*



- NCOIL passed a **resolution** in late 2013 affirming state regulation and a **letter to Congress/Executive branch** urging same.
- NCOIL formed a three-year **International Issues Task Force**
 - with Capital Standards, Coordination & Transparency, and Trade Agreement Working Groups
 - State Officials Working Group & Advisory Council of interested parties
- Task Force focus on **bank-centric regulation, group solvency, international capital standards, trade negotiations, reinsurance collateral, captives, etc.**
- In **July 2014 resolutions** sent to federal, international agencies & officials
 - warned against a one-size-fits-all global capital standard
 - laid out guiding principles for state/federal/national cooperation
 - called for a expanded/continuous legislator role in trade negotiations
- In September and October 2014 sent comments to IAIS/letters to Congress supporting H. Res. 735/S. Res. 561 regarding **openness and interested party input in IAIS initiatives and process.**

State Officials Working Together

- *NCOIL is the voice of state insurance legislators in Washington and internationally.*
- NCOIL advocates for **successful state oversight** by letter, resolution, and model legislation.
- NCOIL **works with other state officials**, NCSL, CSG, NAIC, NAUPA, NAST, NAAG, NASAA, toward efficiency, modernization and uniformity, when necessary.
- NCOIL works with industry, consumer reps, and others to achieve a balanced approach & **protect state citizens and promote healthy businesses** in the states.
- NCOIL **thanks the Academy of Actuaries** for its input at NCOIL meetings and beyond on issues of vital importance to the states.



NCOIL & The Academy

- **The Academy provides input to NCOIL on a wide variety of issues in all practice areas:**
 - ACA implementation
 - National Flood Insurance Program
 - terrorism risk insurance
 - principle-based reserving
 - pension de-risking
 - longevity risk/lifetime income
 - international
- **The Academy provides input through:**
 - in-program testimony
 - comment letters
 - informal discussions



THANK YOU!



NCOIL . . . developing sound public policy since 1969