

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
BUSINESS PLANNING COMMITTEE AND EXECUTIVE COMMITTEE
SCOTTSDALE, ARIZONA
NOVEMBER 20, 2021
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Business Planning Committee and Executive Committee met at The Westin Kierland Hotel in Scottsdale, Arizona on Saturday, November 20, 2021 at 12:00 p.m.

Indiana Representative Matt Lehman, NCOIL President and Chair of the Committees, presided.

Other members of the Committee present were:

Rep. Deborah Ferguson (AR)	Asm. Kevin Cahill (NY)
Asm. Ken Cooley (CA)	Asw. Pam Hunter (NY)
Sen. Travis Holdman (IN)	Sen. Bob Hackett (OH)
Rep. Joe Fischer (KY)	Rep. Tom Oliverson, M.D. (TX)
Sen. Paul Utke (MN)	

Other legislators present were:

Sen. Keith Ingram (AR)	Sen. Walter Michel (MS)
Rep. Craig Snow (IN)	Rep. Hank Zuber (MS)
Sen. Michael McClendon (MS)	Rep. Carl Anderson (SC)

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel

QUORUM

Upon a Motion made by Sen. Bob Hackett (OH), and seconded by Rep. Joe Fischer, NCOIL Secretary, the Committee voted without objection by way of a voice vote to waive the quorum requirement.

MINUTES

Upon a Motion made by Sen. Paul Utke (MN), and seconded by Sen. Hackett, the Committee voted without objection by way of a voice vote to adopt the minutes of the Committee's July 17, 2021 meeting in Boston, MA.

FUTURE MEETING LOCATIONS

Rep. Matt Lehman (IN), NCOIL President, stated that the first item on the agenda for discussion is an update on future meetings. Our 2022 Spring meeting is in Las Vegas. Our other meetings next year are set for Jersey City in July, which you may recall is where we were supposed to meet in July of 2020 but due to COVID we moved that 2022, and our Annual Meeting will be in New Orleans.

Will Melofchik, NCOIL General Counsel, then provided an update on meeting locations beyond 2022. Mr. Melofchik stated that there has been progress made getting Illinois to return as a Contributing State. That is important because there are openings right now in the NCOIL meeting calendar for the Summer of both 2024 and 2025, which would be a great time to go to Chicago. However, the National Association of Insurance Commissioners (NAIC) currently has its 2024 Summer Meeting scheduled to be in Chicago. So, if Chicago was chosen as an NCOIL Summer meeting location, the idea has been preliminarily discussed of possibly returning to the joint meeting format NCOIL had with the NAIC in Austin, Texas a couple of years ago.

Hearing no questions or comments from any legislators or interested persons, Rep. Lehman stated that he takes silence as everyone is ok with that idea. Rep. Lehman stated that this decision is not being made necessarily right now but there was some discussion a couple of years ago from the travel standpoint of some people didn't like it because it made for a longer week for those who were attending both conferences. At the same time, some said they liked it and while they may be away from home longer, they didn't have to travel twice. Rep. Lehman requested that legislators and interested persons continue to think about the idea.

Commissioner Tom Considine, NCOIL CEO, stated that following the joint meeting in Austin a couple of years ago, there was enormous feedback of "never again in December" since it's too close to the holidays. However, there was some underlying feedback on how if it were a summer meeting, people might bring their families and maybe that would be worth exploring. We thought people might have some comments today about that, but it is indeed the end of a very long meeting here, so we really would invite comments back as you think about that going forward as it is a few years away. And of course, Illinois would really need to pay their NCOIL dues.

Sen. Michael McLendon (MS) stated that there's a number of us that are in session in the early parts of the year and in Mississippi, we go through March, and we're normally done in April. Has moving the Spring Meeting from March to April been considered? Mr. Melofchik stated that for next year and 2023, our contracts with the hotels are already signed for dates in March, but this past year we ended up delaying the Spring meeting from the middle of March to the middle of April and it worked out very well. Accordingly, it was decided that going forward the Spring Meeting will be in either early or middle of April.

Rep. Lehman stated that he thinks that the April meeting was well received, and we're in a similar position in Indiana regarding conflicts in March with session dates. Having the Spring Meeting in April is a good thing to keep considering.

Cmsr. Considine stated that he believes there's actually one contract that's signed already for April and the folks who negotiate the contracts on our behalf know that Spring Meetings are now in April and conflicts with Passover and Easter should be avoided. Mr. Melofchik stated that in 2024, the Spring Meeting will be April 11th to 14th in Nashville, TN.

ADMINISTRATION

Mr. Melofchik stated that there were 357 total attendees here in Scottsdale which included 70 legislators from 25 states. That included 22 first time legislators, and we had seven Insurance Commissioners participating. Overall, there were 12 insurance departments represented. Mr. Melofchik gave the 2021 unaudited financials through October 31st of this year, showing revenue of \$1,390,659.30 and expenses of \$1,007,364.46 for an excess of \$383,294.84 heading into this meeting.

Rep. Lehman stated that he thinks those numbers illustrate that we're reaping the benefits of the decisions to change our dues structure, and he appreciates everybody who was supportive of that and who stepped up in their respective states to help us get through that.

CONSENT CALENDAR

Rep. Lehman noted that the consent calendar includes committee reports including resolutions and model laws adopted and re-adopted therein, as well as ratification of decisions made and actions taken by the NCOIL Officers in the time between Executive Committee meetings.

The consent calendar included:

- The Health Insurance & Long Term Care Issues Committee adopted the NCOIL Telemedicine Authorization and Reimbursement Model Act, the NCOIL Accumulator Adjustment Program Model Act, and the NCOIL Model Act Regarding Air Ambulance Patient Protections
- The Financial Services & Multi-Lines Issues Committee adopted the NCOIL Remote Notarization Model Act, the NCOIL Uniform Captive Insurer Model Act, and re-adopted the NCOIL Identify Theft Protection Model Act.
- The Workers' Compensation Insurance Committee adopted a Resolution Opposing Federal Monitoring of the State-Based Workers' Compensation System, and re-adopted the NCOIL Model State Structured Settlement Protection Act until the Spring Meeting.
- The Articles of Organization & Bylaws Revision Committee adopted amendments to the NCOIL Articles of Organization & Bylaws
- The Joint State-Federal Relations & International Insurance Issues Committee adopted the NCOIL Resilient Revolving Loan Fund Model Act, technical corrections to the NCOIL Insurance Business Transfer Model Act, and re-adopted the NCOIL Company Licensing Modernization Model Act.
- The 2021 budget as adopted by the Budget Committee on 11/17/21.
- Ratification of Decisions Made & Actions Taken by the NCOIL Officers in time between Executive Committee Meetings.

Rep. Lehman asked if any Committee member wanted anything removed from the consent calendar. Hearing no such requests, upon a Motion made by Asm. Ken Cooley (CA), NCOIL Vice President, and seconded by Rep. Deborah Ferguson (AR), the Committee voted to adopt the consent calendar without objection by way of a voice vote.

OTHER SESSIONS

Rep. Lehman stated that it was great to see Congressman Andrew Garbarino (NY) back at NCOIL in his new role, and he delivered great remarks as the Keynote speaker during the luncheon.

The Griffith Institutes Foundation held another great luncheon with their presentation on the Direct-to-Consumer Insurance.

We had three great general sessions:

- “Insurance Score Transparency”
- “Prior Authorization in Healthcare – Are Goldcards the Answer?”
- “Man’s Best Friend But Not Insurable?”

Asm. Cooley stated that he would like to point out how well the organization’s budget is doing, and that during Congressman Garbarino’s remarks at the luncheon, when talking about the role of NCOIL and his career, he said, “Everything I learned about insurance I learned at NCOIL.” For those of us who come to NCOIL, we know that insurance is such a complicated subject, and if you’re a busy lawmaker you can’t actually gain a comprehensive understanding and feel of insurance at any point in your career. Insurance is kind of like the old story of two guys getting chased by a bear and one of them stops and takes off his shoes. And the other one says, “Why are you doing that, you have to outrun the bear.” To which he says, “No, I actually only have to outrun you.”

He continued that he believes “insurance is that way. We go back to our state capitals and colleagues are going to look to figure out who in the room seems to have an orientation on the subject matter. It doesn’t even need to be comprehensive knowledge, you just have to know what you’re talking about, what the general subject is, have a baseline understanding, and be able to ask intelligent questions that illuminate the issue. And that is what NCOIL can do for lawmakers who are in this space in all the 50 states. The organization is doing great, both financially and structurally, and those who come to NCOIL - we’re the ones that can lead the conversations on insurance and the organization is a great asset. That’s part of what makes us distinctive and very important in this space.”

NOMINATING COMMITTEE REPORT

Sen. Travis Holdman (IN), NCOIL Immediate Past President and Co-Chair of the Nominating Committee, stated that the Nominating Committee met on Thursday and voted to recommend the slate of officers for next year which includes two new officers. The Committee had five outstanding candidates and we labored long over the selection. The Committee’s recommendation is that Arkansas Representative Deborah Ferguson be slated for the position of NCOIL Secretary, and Texas Representative Tom Oliverson be slated for the position of NCOIL Treasurer.

The Treasurer position will be open next year because current NCOIL Secretary Kentucky Representative Joe Fischer has decided not to proceed through the Chairs as he’s not fully certain that he will seek another term in the legislature¹. Rep. Fischer decided that it would be best for the new officer to be selected now so they can gain experience as opposed to a new officer being selected immediately before becoming NCOIL President which is the situation that we got ourselves into a few years ago when Vermont Representative Bill Botzow stepped down from the legislature just one year prior to becoming President of NCOIL.

¹ Rep. Fischer has since announced that he will not seek re-election in 2022, and will seek election to the KY Supreme Court.

Additionally, the Committee naturally continued and approved the progression of New York Assemblyman Kevin Cahill and Asm. Cooley to advance through the Chairs to the positions of Vice President and President, respectively. Sen. Holdman stated that, accordingly, the officer group would now be those four individuals plus Immediate Past Presidents Rep. Lehman and Arkansas Senator Jason Rapert. Sen. Holdman then presented a Motion to adopt that slate of officers. Sen. Bob Hackett (OH) seconded the Motion.

Rep. Lehman asked if any of the officers would like to say a few words.

Rep. Ferguson thanked the Committee for its consideration and stated that she has really enjoyed NCOIL over the years as it's really one of the best groups she belongs to in terms of really advancing sound policy and model legislation. Rep. Ferguson stated that she looks forward to working with everyone to continue the good path that NCOIL's been on.

Rep. Oliverson stated that he would like to echo Rep. Ferguson's comments, as well as Congressman Garbarino's – "Everything I learned about insurance I learned here." Rep. Oliverson stated that this organization is deeply, deeply important to him and he wants to see it continue to flourish.

Asm. Cahill stated that he would like to take a moment to acknowledge the great contributions that Sen. Holdman has made to the organization. Asm. Cahill stated that Sen. Holdman was one of the key figures when Asm. Cahill first got involved at NCOIL. Sen. Holdman presided over a time of great transition, and he shepherded the organization through a difficult time and continued to steady the ship every time it started to wobble a little bit. Asm. Cahill stated that he is very happy to have worked with Sen. Holdman and wishes him great success going forward.

Hearing no further comments and no questions being proposed, the Committee voted without objection by way of a voice vote to adopt the Nominating Committee's report.

Rep. Lehman then stated he would like to say a few words before turning things over to Asm. Cooley as new NCOIL President. Rep. Lehman stated that this is his 34th NCOIL meeting. He first came in Boston in 2010 and he has not missed a meeting since then, not because he's learned everything about insurance at NCOIL but because he's in the insurance business and everything is tied at the hip together. Rep. Lehman stated that the insurance industry is heavily regulated, and he's told colleagues that if you're going to make laws you need to know what you're doing.

Rep. Lehman continued that he's not planning on going anywhere but he really appreciates his time as NCOIL President during which he was able to preside over organizational growth. There was a hiccup of course with COVID which at first seemed to not be a big deal, but then suddenly there was the issue of business interruption coverage and for about two and a half weeks he spoke with Cmsr. Considine every day trying to keep Washington D.C. at bay. Rep. Lehman stated that he's glad that the organization is back to meeting fully in-person, and he's excited where the organization's going. He wishes he had been able to travel to more states during his time as NCOIL President but maybe now he'll be freed up and can do that. Rep. Lehman stated that he is looking forward to Asm. Cooley's leadership and noted that if you've gotten to know Asm. Cooley at all, he is a steady hand at the wheel and is someone who's a deep thinker and is going to be a great asset to NCOIL. Rep. Lehman then recognized Asm. Cooley as new NCOIL President.

Asm. Cooley stated that it is an honor to follow Rep. Lehman. The new President noted that his predecessor brings a great passion for the industry, and he brings great knowledge to the industry and he has persevered through two years in this his role as NCOIL President really carrying the organization through during COVID. To persevere in one's work and make things happen during the time of COVID with all the discombobulation that was imposed on people is a real testament to the great work Rep. Lehman has done for the organization, and he has helped really put NCOIL on the national map. Asm. Cooley stated that even during the NCOIL – NAIC Dialogue on Friday morning, there was a change in tone in how we interact with regulators, and how they responded to us, and how they responded when an issue came up concerning the standard nonforfeiture law and maybe some approvals that happened where some regulators were not making the connection between what was the law and what was presented to them. Asm. Cooley stated that it's so important to have legislators who own the policy on behalf of the public as we are the first branch of government because we hold the people's power. Asm. Cooley then presented Rep. Lehman with a replica of the official NCOIL seal in honor of his unique time as a two-year NCOIL President.

Rep. Lehman stated that he would like to thank his fellow officers as they all were a pleasure to work with and really helped him during his time as NCOIL President.

Asm. Cooley stated that it is a great honor to be NCOIL President and his first boss back in the 1970s was an independent insurance agent who went to NCOIL meetings. Asm. Cooley stated that he went to his first NCOIL meeting when he was Chief Counsel for the California Assembly Finance and Insurance Committee in the 1980s. When he was first elected to the CA Assembly back in 2012, the Speaker didn't know him very well so Asm. Cooley had a sit-down get-to-know-you meeting with the Speaker. Part of the ritual in such a meeting is you get to ask for three things. Asm. Cooley stated that at that time, California was not a dues paying member state of NCOIL although California was the nation's largest insurance market. Accordingly, one of the three things Asm. Cooley asked for during the meeting was to get California signed-up as an NCOIL dues-paying Contributing state because it was very important to him.

Asm. Cooley again stated that it is such a huge honor to now be in a position to step into this role as NCOIL President. Asm. Cooley stated that he is a huge believer in the role of lawmakers that at the end of the day our very important partners who are the regulators, they're job is to implement the law that we and our predecessors put on the books. The whole regulatory system that is state based that we defend at NCOIL is founded upon a delegation of legislative authority out to the regulators and implicit in that to the NAIC. Everything the NAIC does is sort of surfing on our wave, and it is very important that we assert the dignity of our office which is not egotism but just inherent in our system of government as we are the first branch of government and it's our obligation to represent our constituents and the businesses of our state to make sure there's a fair deal and the system works. Asm. Cooley stated that we must always keep our ear to the ground when an issue comes up which is why NCOIL adopts Model laws because somebody sees an insurance issue that needs some attention and lawmakers need to be in that conversation.

Asm. Cooley stated that it is a great privilege to enter into this role and it's something that he's so thrilled to do. With that being said, he noted that the Committee had a couple of final items of business to address, one of which is the consideration of NCOIL's auditor for next year. Asm. Cooley recognized Cmsr. Considine to address those items of business.

Cmsr. Considine thanked Asm. Cooley and stated that as a brief matter of personal privilege, he can't say enough about Rep. Lehman. He noted that several years ago, during an NCOIL

conference a group of legislators and staff were on a day trip after the conference ended early on Saturday and there was some sparring with nicknames. Rep. Lehman's nickname was Santa Claus. Cmsr. Considine stated that during the most recent conference in July, somebody asked him to introduce him to Rep. Lehman and Cmsr. Considine replied: "Well you see the guy way over there in the corner? He looks a little bit like Santa Claus, except when you get over and you speak to him, you'll find the difference is that Matt's nicer." Cmsr. Considine noted it is in fact true.

Cmsr. Considine stated that he annoyed Rep. Lehman and his wife to no end during the last two years with NCOIL matters and they were unbelievably gracious with their time. Cmsr. Considine further stated that it's also not lost on him or Mr. Melofchik that this is what we do for a living, but Rep. Lehman is not a back bench legislator in Indiana - he's the Majority Leader of a caucus. And yet, Rep. Lehman would always make time to talk whenever we needed. Cmsr. Considine stated that it's not too strong a statement to say that he loves the guy, and he can't thank him enough for everything.

ANY OTHER BUSINESS

Cmsr. Considine stated that the current auditor utilized for NCOIL is Collins & Co. out of Pennsylvania. There's a limited number of auditing firms that do this work for organizations like NCOIL. He continued that the firm does some guaranty association work and some insurance trade association work. They have been with us for a number of years and do put new eyes on the account every year. They meet with the Auditing Committee in detail with staff out of the room. Cmsr. Considine stated that it's our recommendation as staff that the organization continue to retain them.

Hearing no questions or comments, upon a Motion made by Asm. Cahill and seconded by Sen. Holdman, the Committee voted without objection by way of a voice vote to retain the services of Collins & Co. for 2021 audits

Asm. Cooley then offered the opportunity for any nominations of legislators to the Executive Committee.

Rep. Ferguson stated that she would like to nominate Rep. Carl Anderson from South Carolina.

Rep. Oliverson stated that he would like to nominate Sen. Walter Michel from Mississippi.

Sen. Holdman stated that he would like to nominate Sen. Keith Ingram from Arkansas.

Sen. Michel stated that he is not sure if he has been formally placed on the Committee yet because there hasn't been a vote, but he would like to nominate Sen. Mike McClendon from Mississippi. Sen. Paul Utke (MN) then nominated Sen. McClendon.

Sen. Hackett stated that his colleague, Sen. George Lang (OH) has tremendous insurance experience and asked if Sen. Lang had to be at a certain number of NCOIL meetings to qualify for Executive Committee membership. Asm. Cooley replied that any legislators seeking nomination to the Executive Committee must be present at the meeting of the Executive Committee in order to be considered.

Hearing no questions or comments, upon a motion made by Sen. Holdman and seconded by Rep. Oliverson, the Committee voted without objection by way of a voice vote to add Rep. Anderson, Sen. Michel, Sen. Ingram, and Sen. McClendon to the Executive Committee.

Asm. Cahill congratulated Asm. Cooley on his new role as NCOIL President and stated that his knowledge of insurance has been terrific from the first day that he heard him speak on the subject and he looks forward to serving together in the NCOIL officer ranks. Asm. Cahill stated that he would also like to take a moment to thank now Immediate Past President Rep. Lehman for his help during COVID and also for his extended tenure as NCOIL President and for everything that he did to make this organization as vital and important as it is. Asm. Cahill further stated that he would like to welcome the two new doctors to the NCOIL Officer group - Drs. Ferguson and Oliverson. NCOIL is very lucky to have them on the team going forward and there is so much great work that the organization can do and that they can contribute to.

Asm. Cahill stated that he would like to address an issue that just came up today at two meetings where speakers included props in their presentation. In one instance it was t-shirts and stuffed animals and baseball hats, and in the other instance it was quite frankly something pretty offensive, and comical. Asm. Cahill stated that he believes that it took away from the decorum and the seriousness of the protocols that NCOIL has and he asked either formally or informally that speakers be advised in the future that this is a serious forum where there are rules and limitations as to what can and cannot be used as part of a presentation and that we would expect them to respect it; or respect the fact that we should not be allowing them to speak.

Sen. Utke stated that he was prepared to raise the same issue and asked if there is any current written policy referring to props being used at NCOIL meetings. Sen. Utke stated that in his legislature and most likely legislatures around the country, there is a type of a decorum where certain things aren't allowed in hearings. Sen. Utke stated that if NCOIL doesn't have any such guidelines, perhaps it should be addressed whether it's done through the Executive Committee or through staff coming up with a recommendation.

Asm. Cooley stated that he agrees there is a decorum that is associated with most legislative chambers and activities and as a legislative body, NCOIL can work on that.

Cmsr. Considine stated that this was an issue that was beyond regrettable, and it was wrong. Typically, the Chairs have very wide latitude, and we hadn't contemplated it, frankly, because we didn't want to have a "no prop" ban because of situations where if somebody brought a globe or something that was going to have some true value, we didn't want to bar that. He noted that certainly now, staff will be happy to draft something that seeks to thread that needle to say that anything that in any way doesn't meet proper standards of decorum, which is differentiated from things that have scientific or insurance related value, is barred, and that the Chair or moderator can stop comments and end testimony.

Asm. Cooley stated that here in the great state of Arizona he visited its Chambers on Tuesday and there in the gallery of the Senate and Assembly was a message saying that no placards or signs or things that are offensive to decorum are not welcome there. We are certainly in a time when there is an intensity of feeling in the public space that we all encounter in varying degrees. Asm. Cooley stated that he actually sat in his Capitol office recently and had somebody who ended up having to be forcibly restrained trying to open his rear door which is a private door. Fortunately, there was a sergeant nearby.

One of the tremendous strengths of NCOIL is that it's a bipartisan organization focused on trying to further good public outcomes and we believe in free speech, but there's also a need to maintain a sort of civility in the discourse so there should certainly be something that characterizes us what is really the fiber of this organization over its history. Asm. Cooley stated that this can be treated as a facet of the times we are in that people feel empowered to do all manner of things, which might strike us as unexpected, so some boundaries need to be set and enforced, independent of the topic and speech. It's nothing personal, and actual good democratic work.

Cmsr. Considine requested that the recommendation from this Committee be extended. No one wants to get into the censorship business, but if people advertise in the NCOIL conference program that in some way would seek to link their organization to NCOIL or give the impression that the organization is tied to NCOIL by having a website that has NCOIL as part of its address, we should be allowed to restrict that as well. Asm. Cooley agreed.

Rep. Ferguson stated that it would be best to provide the rules and guidelines with the speakers in advance rather than trying to enforce them after the fact. Asm. Cooley agreed and stated that he expects that something will be developed that puts the protocols in writing and becomes a standard part of interaction at NCOIL meetings, and it's probably worth making sure people have annotated it and provided it to us so we know it's read and agreed to.

Asm. Cooley asked if there was a representative from the IEC present who would like to offer suggested topics for discussion at future NCOIL meetings.

Frank O'Brien, VP of State Gov't Relations at the American Property Casualty Insurance Association (APCIA), stated that the IEC has a recommended topic that has to do with insurance industry apprenticeship programs that was put forward by Zurich. The IEC recommends that particular topic for NCOIL's consideration and thanks NCOIL for its continued partnership with the IEC.

ADJOURNMENT

Hearing no further business, upon a motion made by Rep. Oliverson and seconded by Sen. Utke, the Committee adjourned at 1:00 p.m.