



Some business as usual despite recession

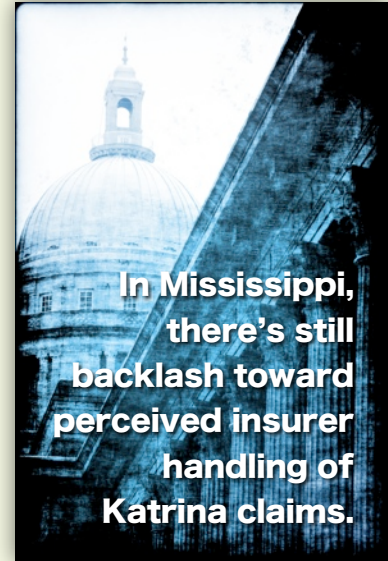
Lawmakers focus on state budget crises

Economic issues dominated the first quarter of 2009. State legislatures spent more time dealing with budget and stimulus problems than any other issue. This preoccupation stalled the progress of several promising fraud bills. But several states did manage to conduct business as usual. Among them:

Two bills surfaced in **Mississippi** to strengthen the attorney general's ability to tackle insurance fraud issues, but both measures fell flat. The AG wanted to double the statute of limitations from two to four years, giving fraud fighters more time to discover and build a strong case against suspected schemers. But the legislative committee tabled the proposal early this year.



Another bill allowing the AG to recover double its investigative costs for convictions of white-collar crimes also fizzled in committee. This bill would've let the AG recoup costs of some insurance fraud cases brought under other criminal laws in the state. One reason for the failure: There's still backlash among some legislators toward perceived insurer handling of Katrina claims.



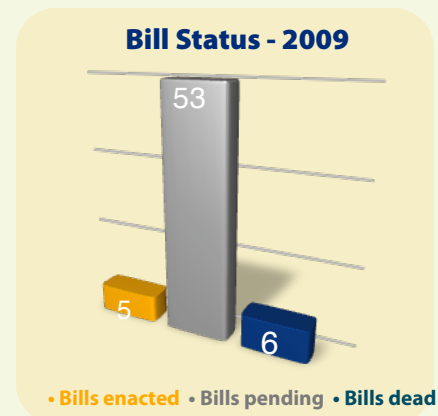
The **New Mexico** legislature quashed two fraud bills in its brief 60-day session. One measure would've let prosecutors use the state's racketeering law to convict insurance schemers. The stiff penalties of a racketeering conviction could've imposed serious jail time and fines on hardened fraudsters who've launched highly organized insurance schemes. The second bill would've let courts increase fraud penalties by aggregating the money stolen by swindlers. Thus, the more insurance money a swindler is convicted of stealing, the longer the sentence. The measure passed one chamber but died in the second chamber. The sponsor told the coalition he's frustrated by the lack of movement. These bills stand little chance as long as certain legislators who control committee action remain in their positions, he told the coalition.



Hawaii legislators are working to expand the fraud bureau's jurisdiction from only auto cases to most lines of insurance. Bills failed in the past in disputes over workers comp. Competing factions couldn't agree whether the bureau should investigate comp cases, and if so, whether to include both premium-avoidance schemes by businesses and bogus injury claims by workers. The current bill would expand the jurisdiction to all lines except workers comp. Removing this bone of contention increases the chance of passage. The bill is just one step away from passage.



But the House and Senate disagree on wording, so passage depends on their ironing out their differences. Legislators generally support the broad goal, however, so the measure has a fighting chance before the statehouse closes in May.



Deflating Airbag Schemes

Lawmakers seek to boost fragmented safety net



Life-threatening airbag schemes are now in the crosshairs of state insurance legislators, who are drafting a model bill dealing with airbag theft and fraud. The National Conference of State Legislators (NCOIL) is pushing forward after hearing a report by the coalition at the group's recent meeting.

Motorists have been killed and injured in crashes after crooked body shops had removed their airbags, or replaced them with tennis shoes, beer cans and other junk. Insurers often are charged full freight for phantom or knockoff airbags. Little hard data exist to define how large this crime really is, but anecdotal evidence suggests the crime may be more widespread than most people think.

States have adopted a variety of airbag laws, but the responses are fragmented and inconsistent, the coalition told NCOIL. Among the solutions various states have chosen:

- Require auto body shops to place in repaired vehicles an invoice or bill of sale for the replacement airbag;
- Require police accident reports to note whether the airbag has deployed;
- Make it a misdemeanor—or felony—to steal an airbag, or install a stolen or phony airbag; and
- Impose harsh felony penalties such as manslaughter if someone is seriously injured or dies in an accident involving a vehicle with a phony airbag.

The coalition will work with NCOIL to draft a model bill for discussion at the group's summer meeting in Philadelphia.

Diverting Drug Diversion

Federal stimulus money will strengthen state monitoring

The omnibus spending bill that President Obama recently signed includes \$2 million to help states clamp down on the illegal diversion of addictive prescription drugs such as OxyContin. This crime trend is heavily financed by insurance fraud.

The federal dollars will help fund the National All Schedules Prescription Electronic Reporting system. This will help states implement prescription monitoring programs that track usage patterns of

addictive drugs such as OxyContin.

Insurers pay billions of dollars in bogus claims annually for these stolen drugs, says the coalition's landmark report [Prescription for Peril](#). States should implement and fully fund the monitoring programs to keep track of providers, pharmacies and patients for these drugs, the coalition urges.



Economy hits fraud fighters where it counts

Scarce money forcing tough choices, cutbacks

Late in 2008 the coalition warned that economic issues would dominate state governments in 2009. The fallout could have twin impacts on the fraud fight: Deplete funds for state anti-fraud operations, and make fraud bills much harder to pass this year. Both predictions are coming true.

Several examples:

The **Arizona** fraud unit saw staff reductions that some have described as decimating the unit. Nine of the 13 investigators and support staff were cut. Most of the remaining employees have to take unpaid furlough days that effectively reduce their work week to four days.

The budget cuts also reduced the caseload the unit could handle, and slashed the travel budget for investigating cases out in the field. Legislation to help rebuild some of the funding also was sidetracked—another victim of the state's economic crisis.

In **Florida**, chills rushed through the anti-fraud community when regulators floated the idea of axing all seven insurance fraud prosecutors. Florida is facing immense budget pressure. A legislative committee recently held a hearing, asking state agencies to suggest ways they could help the state cut spending 20 percent.

Florida's fraud prosecutors have had growing success in dismantling staged-accident rings and other fraud operations. The CFO doesn't necessarily support pink-slipping the prosecutors, and it was a non-binding idea. But the fact that it even was placed on the table raises concerns about the recession's potential to damage anti-fraud efforts in concrete ways.

As **Utah** gradually enlarged its fraud bureau over the last several years, the unit needed more funding to properly investigate all the cases it was digging up. Legislation increasing the insurer assessment was introduced early this year. But once again the economy intruded. The bill reached the House floor, but a majority opposed increasing the assessment mainly because legislators believed this was no time to increase the cost of government programs, even if no state funds were used.

California prosecutors have long recognized a quirk in its workers comp laws: The penalty for a business that avoids buying mandatory comp coverage is less than for lying about its workforce to reduce comp premiums.

The solution: Draft a bill with stricter criminal penalties for businesses of at least 25 employees that avoid buying coverage.

The problem: The state's penal system is grossly over-populated and there's talk about releasing non-violent criminals to reduce overcrowding, news reports say. So how do you add new criminal penalties that could result in more jail time without further burdening the jails? The state needs to reduce the



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prison population and state spending, and any bill that doesn't fit with this reality may not pass. That's the discussion going on with lawmakers.

Most state legislatures meet for only a few months a year — some are open for just weeks. That means tight deadlines for passing fraud bills. Any distraction that slows a committee or chamber could easily derail a fraud measure as time runs out.

State budget debates and spending disputes are slowing legislatures down. Lawmakers are deferring other measures such as fraud bills while they wrestle with large budget deficits.

Though fraud legislation has taken several hits from the recession, there's still time and opportunity for well-mobilized fraud fighters to enact fraud laws that tighten the noose around insurance criminals.

NCOIL has turned to the coalition as its lead advisor on airbag fraud and theft this year. The coalition has played a key advisory role on numerous fraud issues since the coalition's founding in 1993.

In fact, NCOIL is an early member of the coalition. The coalition's director of government affairs regularly advises NCOIL on fraud issues. And when NCOIL and its legislators seek insight about insurance fraud issues, they regularly turn to the coalition.

NCOIL has approved three distinct model laws in which the coalition played an integral role in assisting and drafting: A model making insurance fraud a specific crime; making it a crime to hire or act as a recruiter for fraud rings; and an auto-insurance fraud model. The coalition gave the legislators credible and concise information about fighting insurance fraud and crafting well-worded fraud bills, says Bob Mackin, former executive director of NCOIL.

"The coalition historically has been a

Coalition tradition: advice and consent

*Serving as lead advisor to
lawmakers & regulators*



leader in NCOIL's fraud-fighting efforts, including adoption of an anti-runners fraud bill and legislators' current examination into deceptive airbag practices," adds Susan Nolan, NCOIL's current executive director

The coalition plays a similar role in advising the NAIC's anti-fraud task force. The coalition "has been a consistent contributor in the creation of anti-fraud task force model laws and guidelines which have been of high value in states establishing fraud fighting strategies across the United States," says Stephen Perry, director of the District of Columbia's fraud unit.

The task force benefits greatly from its relationship with the coalition, says Ted Clark, head of the Kansas fraud bureau and task-force chair.

The unit regularly receives advice information about legislative initiatives, and individual fraud bureaus have benefited from the coalition's legislative support, Clark says.

Transitions

Two fraud bureaus have new directors

[Armand Glick](#) succeeds Joe Christiansen as director of the Utah Insurance Fraud Division. Glick comes from the Salt Lake County Sheriff's Office.

Paul Boudreaux, Jr. replaced Trent Beach as director of the Insurance Fraud Section in the Louisiana's insurance department. Boudreaux is an attorney who previously worked for the state attorney general.

Kansas Gov. Kathleen Sebelius was nominated by President Obama to be Secretary of Health and Human Services. The Secretary will play a key role as health reform is crafted in the coming months. Sebelius also served as Kansas insurance commissioner and was president of the NAIC.



Armand Glick

Bills enacted during the current session

Maryland — Fraud plans, [H 142](#) — *Requires recipients of disability insurance to periodically reaffirm eligibility.*

Maryland — Unauthorized insurers, [H 160](#) — *Adds acting as a public adjuster without a license as insurance fraud.*

New Jersey — Workers compensation, [S 1918](#) — *Gives the insurance fraud prosecutor a role in prosecuting businesses that fail to have workers compensation.*

New Jersey — Health insurance, [S 787](#) — *Gives physicians greater ability to refer patients to outpatient surgical facilities in which the physician has a financial interest.*

Utah — Health insurance, [H 81](#) — *Requires health care facility to require identification before performing in-patient or out-patient care.*

Online resources

Links to legislative and regulatory resources at [InsuranceFraud.org](#)

- [Current legislation](#)
- [Fraud bills enacted this year](#)
- [Latest legislative news](#)
- [Model insurance fraud act](#)
- [State anti-fraud requirements for insurers](#)
- [State insurance fraud laws](#)



**Coalition Against
Insurance Fraud**

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