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### NCOIL MOVES TO REGULATE CREDIT DEFAULT SWAPS

**Washington, DC, April 8, 2009** — Seeking to regulate the unregulated, the National Conference of Insurance Legislators (NCOIL) Task Force on Credit Default Swaps (CDS) Regulation will draft model legislation establishing strong solvency and disclosure requirements for CDS—transactions that have been blamed, in part, for the nation's ongoing economic turmoil. During a Task Force conference call on April 3, lawmakers approved plans to treat CDS as insurance and develop legislation to regulate the market for the first time in advance of a second call later this month.

NCOIL President Senator James Seward (NY) said:

When the Congress passed the *Commodity Futures Modernization Act (CFMA)*, it effectively preempted state “bucket shop” laws that prohibited betting on securities while simultaneously exempting CDS from federal regulation—thus, allowing the market to flourish without oversight. It is clear that state legislators and regulators have jurisdiction over the insurance market and that certain CDS should be considered insurance. By regulating CDS as insurance, we can unmuddy the waters that were caused by the CFMA.

Task Force Chair Assemblyman Joseph Morelle (NY) said:

The lack of oversight, transparency, and public disclosure in the CDS market is now apparent to all. Credit default swaps, which to many resemble simple insurance transactions, played a significant role in bringing financial services conglomerate AIG to its knees, and cost American taxpayers—who knew little about the market and AIG’s overextended role in it—billions of dollars.

Assem. Morelle continued, “We will develop legislation that when adopted uniformly across the states can create first-rate CDS regulation. We believe that so-called ‘covered’ swaps can be considered a form of financial guaranty insurance, and as a species of insurance, should be subject to solvency protections insurable interest requirements, and other staples of insurance oversight.”

The Chairman said the proposed model will rely, among other things, on concepts included in New York State’s financial guaranty insurance statute, Article 69, as well as requirements proposed in Superintendent Eric Dinallo’s (NY) Circular Letter 19. The Task Force will also review Virginia House Bill 2320, which, as its sponsor reported during the initial conference call, was designed to address CDS.

Following a January NCOIL public hearing on CDS, the U.S. House Committee on Agriculture approved H.R. 977, *The Derivatives Markets Transparency and Accountability Act of 2009*, which would grant the Commodity Futures Trading Commission (CFTC) the authority to suspend CDS trading, among other things. Also the Obama Administration has announced that it would seek to regulate CDS as part of a broad financial services overhaul plan.

Sen. Seward said, “While we welcome an opportunity to discuss CDS with the new Administration and with our Congressional colleagues, we believe that it is the states that must develop the regulatory framework. As we draft legislation, we would think that Congress would encourage, not override, this desperately needed reform.”

The NCOIL Task Force was established, and its members appointed, during the 2009 NCOIL Spring Meeting in Washington, DC. Creation of the Task Force followed the five-hour NCOIL public hearing in January and additional discussion during the NCOIL Financial Services & Investment Products Committee meeting in Washington, DC.

Joining Sen. Seward and Assem. Morelle on the NCOIL Task Force are NCOIL Officers—Rep. Robert Damron, KY, NCOIL President-Elect, Rep. George Keiser, ND, NCOIL Vice President, Sen. Carroll Leavell, NM, NCOIL Secretary, and Sen. Vi Simpson, IN, NCOIL Treasurer—and legislators from across the country, including Sen. Joseph Crisco, CT, Sen. Ralph Hudgens, GA, Sen. Neil Breslin, NY, Rep. Hubert Vo, TX, and Sen. Mike Hall, WV.

Task Force calls and meetings, like all NCOIL meetings, are open to the public. Interested parties should contact Mike Humphreys at [mhumphreys@ncoil.org](mailto:mhumphreys@ncoil.org) to be added to an e-mail distribution list.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at [www.ncoil.org](http://www.ncoil.org).

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