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NCOIL LEGISLATORS SAY NO TO ENZI'S AHP COMPROMISE BILL: NEED TO PROTECT CONSUMERS, SOLVENCY

Weston, Florida, March 2, 2006 – At the National Conference of Insurance Legislators (NCOIL) Spring Meeting here, members of the Health, Long-Term Care, and Health Retirement Issues Committee expressed strong concerns regarding the most recent attempt by federal lawmakers to preempt state insurance regulation via Association Health Plan (AHP) legislation. On February 24, during the February 23 through 26 NCOIL Spring Meeting, the committee heard testimony regarding the current status of S.1955, the *Health Insurance Marketplace Modernization and Affordability Act of 2005*, introduced by United States Senator Michael Enzi (R-WY). NCOIL has vigorously opposed AHP legislation on grounds that Congress has a poor record of monitoring financial solvency and ensuring consumer protections.

NCOIL legislator Representative George Keiser (ND) cautioned colleagues about the ramifications of the Enzi bill for state legislatures. He said, “The bill will reduce the number of individuals covered by traditional third-party payers, and decrease the number of insureds protected by state legislative oversight.” The federal government already provides limited insurance through its Medicare, Medicaid, and ERISA programs.

NCOIL legislators were frustrated regarding the lack of NCOIL participation in the drafting process. Representative Brian Kennedy (RI), NCOIL Secretary, questioned why National Association of Insurance Commissioners (NAIC) regulatory staff had been requested for consultation on the Enzi proposal, while state lawmakers were not provided a seat at the table. Kennedy noted, “My colleagues within NCOIL and I are very concerned over the lack of state legislative representation on a major health insurance initiative being promoted within Congress with input from the NAIC. Legislators, and not the regulators,

have a constituent base that would be directly effected by any federal health proposals.” At press time, neither Enzi nor NAIC staff responded to requests by NCOIL for the most recent draft.

The Enzi bill is scheduled for mark-up on March 8 and represents the first AHP legislation considered by the United States Senate. The House of Representatives has passed numerous AHP-related bills. The Enzi measure would create small business health plans (SBHPs), plans that differ from AHPs only in name, and would preempt state benefit mandates. State rating rules for small groups would be replaced by federal rules based on the admittedly outdated 1992 NAIC *Adopted Small Employer Health Insurance Availability Model Act*.

The Enzi bill would also establish a Commission on Health Insurance Standards Harmonization to develop uniformity in insurance law. The Commission would be composed of: four insurance commissioners, two governors, two state legislators, four health insurance representatives, two representatives of agents and brokers, and two actuaries. Who would select the members of the Commission remains unclear.

The Health, Long-Term Care, and Health Retirement Issues Committee will continue to monitor and weigh in on the Enzi bill and related AHP legislative issues before the NCOIL Summer Meeting, scheduled for July 13 through 16 in Boston, Massachusetts.

NCOIL has consistently opposed legislation that would preempt state laws and exempt AHPs from state oversight, saying such bills would permit “cherry picking” of healthier groups or individuals and raise rates for those still under state supervision. AHPs also would increase the risk of insurance fraud while undermining state consumer protections.

Legislators heard from representatives of the NAIC, BlueCross BlueShield Association, and the National Association of Health Underwriters.

NCOIL is an organization of state legislators whose primary focus is insurance legislation and regulation. Many legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the Country.

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