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National Council of Insurance Legislators (NCOIL)

Resolution in Support of State Regulated Health Savings Account-Based Coverage

To be discussed and considered by the Financial Services Committee on December 6, 2018

Sponsored by: Rep. Steve Riggs (KY) and Sen. Jerry Klein (ND)

WHEREAS, Health Savings Accounts (HSAs) insure tens-of-millions of Americans in the employer market and millions more who shop within each state's individual market; and

WHEREAS, HSAs are regulated primarily by the Internal Revenue Service (IRS), one critical feature of qualification being the prohibition of covering medical expenses that are not preventive in nature without cost-sharing; and

WHEREAS, HSAs in the insured marketplace require qualified insurance designed and licensed under the laws of the several states but in conformance with IRS regulations; and

WHEREAS, States, pursuant to federal law, regulate the business of insurance and thus the quality and quantity of health insurance products available within each state's borders; and

WHEREAS, States, at their discretion, decide what benefits must be covered by a policy of insurance within their borders, subject to federal guidelines [under the ACA]; and

WHEREAS, by enacting first dollar insurance mandates and/or coverage requirements for benefits other than preventive care, as defined by the IRS, states risk disqualifying otherwise HSA-qualified fully insured plans; and

WHEREAS, in states where a non-preventive benefit is required to be covered without cost-sharing, HSA owners become ineligible to contribute to their HSAs and must then find replacement health insurance;

NOW, THEREFORE, BE IT RESOLVED, that NCOIL policy shall be to encourage state legislators to adopt a provision of their state statutes exempting HSA-qualified

insurance plans (as defined under 23 U.S.C § 223) from any requirement, past or future, to cover any benefit without such benefit being subject the policy deductible, coinsurance, or other cost-sharing unless such benefit is preventive care - as defined by the IRS;

AND, BE IT FINALLY RESOLVED, that NCOIL shall communicate adoption of this policy to the National Association of Insurance Commissioners (NAIC) and to the Secretary of Health and Human Services (HHS).