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## National Council of Insurance Legislators (NCOIL)

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

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*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).