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July 28, 2015

The Honorable Thomas E. Perez  
Secretary, U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Dear Secretary Perez:

On behalf of the National Conference of Insurance Legislators (NCOIL), I write to you today regarding the Department of Labor's proposed rule to change the definition of "fiduciary" in relation to ERISA plans and IRAs. NCOIL joins with the National Association of Insurance Commissioners, the National Governors Association, individual governors, and other public officials to urge additional consultation with state officials before the proposed rule is finalized. Since the proposal would make significant changes to retirement plan fiduciary rules in place for almost 40 years, we believe it would best serve state and federal officials—in our shared responsibility—to make sure that its impact is not adverse in any way.

As a group of state lawmakers who have worked diligently over the years with our governors, insurance commissioners, and others to build a comprehensive statutory framework that effectively protect consumers, we want to ensure that this proposed rule will be compatible with our state framework and that retirement security policy and insurance regulation do not conflict.

Concerns have been voiced that the proposal may have an inadvertent negative effect on middle-income Americans and small businesses—making it harder for our constituents to plan and save for retirement and hurting small business's ability to start up and maintain retirement plans for workers. Questions have been raised as to whether the rule will inadvertently limit access to financial advice and certain financial products, as well as result in potential liability and costs that will drive committed financial advisors from the market.

In keeping with our common goal—to safeguard and enable consumers moving towards and in retirement—we urge you, while regulating the ERISA plan market, to consider the impact on the insurance marketplace generally and on the successful consumer protection standards that states have worked so hard to develop and enforce. We ask that you further dialogue with the NAIC, NCOIL, and other state officials to ensure that federal and state approaches in this arena are consistent and compatible so that we may all best serve our constituents.

Sincerely,

Sen. Neil Breslin  
NCOIL President

cc: Chairman Lamar Alexander, U.S. Senate Committee on Health, Education, Labor & Pensions  
Chairman Orrin G. Hatch, U.S. Senate Committee on Finance  
Chairman John Kline, U.S. House Committee on Education & the Workforce  
Chairman Paul Ryan, U.S. House Committee on Ways & Means

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