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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

March 7, 2006

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[www.naic.org](http://www.naic.org)

The Honorable Michael B. Enzi  
Chair  
Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, D.C. 20510

The Honorable Ben Nelson  
United States Senate  
Washington, DC 20510

Dear Chairman Enzi and Senator Nelson:

We write to express our sincere appreciation for the opportunity you have granted to the National Association of Insurance Commissioners to actively participate in the improvement of S. 1955. We want to particularly thank you for the chance for our members to candidly discuss your bill via teleconference at our national meeting. You recognized Commissioners' experience as protectors of consumers and gave us a fair opportunity to provide our advice and technical guidance. The nation's insurance Commissioners agree that more needs to be done to make health insurance more affordable and accessible for small employers and their employees. We thank you for your willingness to work with us on this important goal.

As stated in our letter of November 7, 2005, we note that your legislation does not include the option of self-funded association plans, does not create an unlevel playing field where associations are allowed to play by different rules, and does not institute a federal regulator. These are improvements over previous association health plan legislation. It is clear the focus of your bill is to maintain state oversight and consumer protections at the state level.

We appreciate the improvements that have been made to S. 1955 during the past few months. Requiring small business health plans to contract with carriers that are licensed in each state; modifying Title III of the bill to only address harmonization of certain administrative functions, instead of harmonizing consumer protections and access provisions; and, retaining the state self-employed and large group rating rules and access provisions are all key to preserving state oversight and consumer rights. Eliminating the cause of action of carriers against non-adopting states for monetary damages and requiring small business health plans to notify every state in which they operate are important improvements.

However, many Commissioners still have a number of serious concerns. The primary concern is that the bill supersedes state small group rating rules. This is an untenable preemption that will do unintended harm. Deciding how risk will be spread in the market is very complicated and cannot be done on a "one size fits all" basis. We agree with your floor statement on November 5, 2005 "our state insurance commissions are much closer to the real problems confronted by purchasers of insurance in their communities than would be a federal agency in Washington." States are in the best position to determine what rating policies are best for their consumers -- both healthy and sick -- and we believe in its current form S. 1955 will have a negative effect in many states. Over many years of deliberations states have crafted delicately balanced rating systems that are tailor made to address the needs of their healthcare market. We strongly urge you to reconsider this provision and preserve the states' rating systems.

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We share your concerns about expanding access and competition to the small group market. As insurance Commissioners, we are used to detailed actuarial analysis as part of our decision making process. We will be interested in seeing any analysis by the Congressional Budget Office or the American Academy of Actuaries on what the effects of this legislation will be on both the currently insured as well as the currently uninsured.

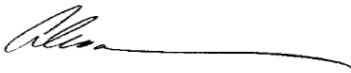
From our teleconference discussion, it is clear that there will be many opportunities for changes to the bill in Committee, on the floor, and in conference committee. We continue to offer our assistance in the form of technical advice on any proposed changes.

As you observed in your floor statement and we recognize here, this bill will not affect the underlying and primary causes of skyrocketing health care costs that are making health insurance increasing unaffordable for millions of Americans. We are hopeful that this constructive dialogue on S. 1955 will be a template for future cooperation as Congress works to address the other health care issues.

Sincerely,



Executive vice president and  
CEO



Alessandro Iuppa  
Superintendent of Insurance  
State of Maine  
NAIC President



Walter Bell  
Commissioner of Insurance  
State of Alabama  
NAIC President-Elect



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