SUMMARY
This resolution urges Congress not to institute new federal review, oversight, or preemption of state health insurance laws as Congress considers health care reform. The creation of a new federal system of regulation for health insurance would be inefficient, unnecessary, not cost-effective, and an additional burden on the health care delivery system. Further, this resolution urges Congress not to create a new federal health insurance “exchange” or “connector” and not to create a new government-sponsored health insurance plan (public plan). Some health care reform proposals would include the creation of a federal exchange or connector to help individuals and small businesses purchase health insurance and would also include a public plan designed to compete against private plans, modeled on Medicare, and with the federal government administering the plan and determining benefits, premiums, and payments to physicians, hospitals, and other providers. Both proposals represent a federal takeover of states’ current role in regulating health insurance.

MODEL RESOLUTION
WHEREAS, The Tenth Amendment to the United States Constitution states that, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;” and
WHEREAS, The states primarily regulate today’s health insurance market and provide aggressive oversight of all aspects of this market and enforce consumer protection as well as ensure a local, responsive presence for consumers; and
WHEREAS, The state-based system of regulation of health insurance has served all interests well; and
WHEREAS, The U.S. Congress is considering legislation that may impose restriction on the states’ ability to regulate health plans, including overriding already adopted state patient protections; and
WHEREAS, The federal government should regulate health plans only where they are given authority under the Employee Retirement Income Security Act (ERISA) and allow the states to continue to regulate all other plans within their borders and with their existing regulatory expertise without federal intervention; and
WHEREAS, The creation of a new federal system of regulation for health insurance would be inefficient, unnecessary, not cost-effective, and an additional burden on the health care delivery system; and
WHEREAS, Private sector health plans are leaders in innovations to improve quality, benefits, and customer service that government-sponsored health plans have been slow to adopt; and
WHEREAS, Congress is considering legislation that would create a federal health insurance exchange or connector to facilitate the purchase of health insurance by individuals and small employers, including offering a new public plan option; and
WHEREAS, A federal exchange would create conflicting state and federal rules, resulting in consumer confusion and leading to adverse selection; and
WHEREAS, A federal exchange would undermine states’ oversight role in health insurance and cause a substantial shift in the regulation of the health insurance market from the states to the federal government; and
WHEREAS, A federal exchange would undermine state authority to design programs that reflect local needs; and
WHEREAS, A new public plan would not improve competition, but would result in an uneven playing field that would shift costs to the private sector and undermine private plans; and
WHEREAS, A new public health insurance plan would be subject to constant federal changes; and

WHEREAS, A new public plan is unnecessary in light of the private sector’s product offerings and innovations.

NOW THEREFORE BE IT RESOLVED THAT the legislature of the state of {insert state} urges Congress not to institute new federal review, oversight, or preemption of state health insurance laws; not to create a federal health insurance exchange or connector; and not to create a federal health insurance plan (public plan) option.

BE IT FURTHER RESOLVED THAT copies of this resolution will be distributed to all Governors and all Members of the U.S. Senate and U.S. House of Representatives.

Adopted by the Health and Human Services Task Force May 1, 2009. Approved by the American Legislative Exchange Council’s Board of Directors June 6, 2009.