MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 02, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

ABSENT/ EXCUSED: Senator Lakey

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

H 0100 **Relating to Insurance Owner Risk and Insolvency Assessment**. **Dean Cameron**, Director, Department of Insurance (DOI), said this legislation is based on the National Association of Insurance Commissioners (NAIC) Risk Management and Own Risk Solvency Assessment (ORSA) Model Act #505, which followed the 2008 recession. The goal is to have insurance companies or insurance holding company groups identify enterprise-wide risks that are relevant and material and report those risks once a year to the DOI on a confidential basis. This ORSA model act will provide guidance and instructions to domiciled insurers for filing a confidential ORSA summary report with the director of the DOI. It is helpful to both insurance companies and their regulator to have companies perform a regular assessment of their own risks and file that summary report with the DOI. This model law will also be required for accreditation of the Idaho DOI by the NAIC. Accreditation is important to maintain for consistent, streamlined, and fair regulation of insurers.

Mr. Cameron said there is no fiscal impact to the General Fund or any other State fund or expenditure in inasmuch as the provisions of this bill can be reviewed and monitored with the DOI current and requested appropriation. Implementation of this legislation will help assure financial security of domiciled insurance companies, thus preventing utilization of the State guaranty funds and a commensurate reduction in premium taxes.

Mr. Cameron noted that there is a small company exemption for companies who do not exceed $500 million in premium oR $1 billion premium as a group of companies. The need for confidentiality is critical to Idaho domiciled insurance companies. Currently, domiciled insurance companies undergo an examination every five years.

DISCUSSION: **Senator Burgoyne** asked if this chapter was replacing something in the law or was it new. **Mr. Cameron** said this legislation is a whole new chapter in code. **Senator Burgoyne** asked if the five-year independent evaluation would continue and would the report be certified. **Mr. Cameron** said the evaluation would continue, but the information would not be certified. However, there is a statement that is required stating that the information is true to the best of their knowledge. **Senator Burgoyne** said that if the report was not certified, were there provisions already existing in code to disincentivize those who do not report honestly. **Mr. Cameron** said there were provisions in the code and the DOI has the authority to take corrective action.

Senator Martin asked if control was being given up with the change in this bill. **Mr. Cameron** said that in order to prevent federal intervention, the NAIC has worked hard to provide a set of standards for accreditation, which is in the best interest of consumers. This bill requires passage or the DOI will lose their accreditation.

MOTION: **Senator Martin** moved that **H 0100** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 0101 **Relating to Insurance (Reinsurance)**. **Dean Cameron**, Director, Department of Insurance (DOI), said this legislation is based on the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law #785. Idaho already has some provisions from this model law in existing code setting forth conditions when ceding insurers may take credit for reinsurance. The revisions will reduce collateral requirements for non-U.S. licensed reinsurers that are licensed and domiciled in qualified jurisdictions. This in turn will make reinsurance more affordable for U.S. insurers while still maintaining necessary protections. This model law will also be required for accreditation of the Idaho DOI by the NAIC. Accreditation is important to maintain for consistent, streamlined, and fair regulation of insurers.

Mr. Cameron stated there is no fiscal impact to the General Fund or any other State fund or expenditure as the implementation of this legislation will require no additional effort by the DOI other than the drafting of rules. To the same extent the State or any government entity purchases reinsurance, passage of this legislation should lead to a reduction in cost or a positive fiscal impact.

Mr. Cameron explained that non-U.S. reinsurers are evaluated based on their financial strength, claims payment history, including qualified jurisdiction. The amount of collateral required would be based on that evaluation. Lower collateral requirements would lower costs while maintaining adequate financial security.

DISCUSSION: **Senator Burgoyne** asked who decided the appropriate level of collateral. **Mr. Cameron** explained the decision is made in Idaho, but a national standard is used. There are several criteria, including the location of the company.

MOTION: **Senator Guthrie** moved that **H 0101** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 0102 **Relating to Insurance - Establish Provisions - Corporate Governance and Annual Disclosures**. **Dean Cameron**, Director, Department of Insurance (DOI), said this legislation is based on the National Association of Insurance Commissioners (NAIC) Corporate Governance Annual Disclosure Model Act (#305). In part following the 2008 recession, the NAIC worked towards the goal of having insurance companies or insurance holding company groups identify their corporate governance practices. This corporate governance model act will provide guidance and instructions to domiciled insurers for filing a confidential corporate governance annual disclosure with the DOI. This legislation will outline requirements for completing a confidential corporate governance annual disclosure and permit the Director to gain and maintain an understanding of domiciled insurers' corporate governance framework. This model law is expected to be required for accreditation of the Idaho DOI by the NAIC. Accreditation is important to maintain for consistent, streamlined, and fair regulation of insurers.

Mr. Cameron said there is no fiscal impact to the General Fund or any other State fund or expenditure inasmuch as the provisions of this bill can be reviewed and monitored with the DOI's current and requested appropriation. Implementation of this legislation will help assure financial security of domiciled insurance companies thus preventing utilization of the State guaranty funds and a commensurate reduction in premium taxes.

Mr. Cameron reiterated that currently domiciled insurance companies undergo an examination every five years and exam information is held confidentially. The need for confidentiality is also important for other out-of-state companies who wish to sell to Idaho consumers.

DISCUSSION: **Senator Burgoyne** asked if information provided by the DOI is already in the public domain and would the information be protected. **Mr. Cameron** said that if the information is in the public domain, it is not protected. If the information is confidential, the DOI holds that in confidence. If the DOI finds something actionable, an administrative order is issued. Consequences of violations are posted on the DOI website.

MOTION: **Senator Thayn** moved that **H 0102** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1079 **Relating to Limited Lines of Travel Insurance**. **Sarah Bettwieser**, representing U.S. Travel Insurance Association (USTIA) introduced Bill Scoggin, USTIA. **Mr. Scoggin** stated this legislation would authorize the Department of Insurance (DOI) to issue limited lines travel insurance producer licenses to qualified applicants who provide travel insurance through travel retailers. The legislation requires the licensed limited lines travel insurance producer and the travel retailer to meet administrative and disclosure requirements, such as including the producer's identification information and making certain disclosures to the consumer in the marketing materials and fulfillment packages, and requiring the producer to establish and maintain a transaction record.

Mr. Scoggin said this legislation has no fiscal impact on local government or to the General Fund. There will be a small incremental increase in cost to the DOI for issuing licenses and the general regulation of licensees. As with the regulatory cost for all DOI licensees, the cost associated with the issuance of licenses will be offset by the fees for licensure. **Mr. Scoggin** stated travel insurance includes coverage for cancelled or interrupted trips, medical and dental emergencies, lost or damaged baggage, damaged or stolen rental cars, and travel supplier bankruptcies. The need for this legislation stems from regulatory inconsistencies among the states which are driven by a number of underlying factors, reflecting both the realities of the market and the regulatory approaches of the states.

Mr. Scoggin explained that travel agents who distribute travel insurance are not in the business of insurance or are they perceived to be by consumers. Travel insurance products are rarely, if ever, offered by insurance agents who sell major lines of insurance, such as property and casualty or health coverage. In the modern market, travel agents may do business in one state or many states and can often not reasonably predict the state or states in which they might do business as they could receive a call from anywhere for travel services.

Mr. Scoggin pointed out that the National Association of Insurance Commissioners (NAIC), as well as the National Conference of Insurance Legislators (NCOIL) have recognized the issues with limited lines licensing and have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance through travel retailers. The NAIC standards and the NCOIL Model Act are the framework for this proposed legislation. **Mr. Scoggin** said this legislation will allow a travel retailer to offer and disseminate travel insurance under a licensed insurance provider, but only if certain consumer protections are met. The legislation requires the licensed limited lines travel insurance producer and the travel retailer to meet administrative and disclosure requirements. Certain disclosures to the consumer are required in the marketing materials and fulfillment packages, and requires the producer to establish and maintain a transaction record. **Mr. Scoggin** explained the DOI is supportive of this legislation and he is not aware of any opposition. This legislation is in place in 44 other states, including surrounding states.

DISCUSSION: **Senator Anthon** and **Mr. Scoggin** had a conversation about the purpose of regulation. **Mr. Scoggin** said there was a real need for regulation that says as companies do business in various states, they know the rules and there is no guessing. Fees are assessed by the producer. Insurance companies pay fees to the DOI. Some states charge a fee and others do not.

MOTION: **Senator Guthrie** moved that **S 1079** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1117 **Relating to Self-Funded Insurance Plans**. **Senator Thayn** provided background information and the rationale for this proposed legislation, the purpose of which is to make it easier to create self-funded health insurance plans. The proposed legislation adds to the current law giving authority to the Director of Insurance to extend a self-funded plan by up to 12 months to meet the minimum surplus requirements. All other requirements must be met.

TESTIMONY: **Eric Exline**, Chief Communication Officer, West Ada School District, testified in support of the bill. He said that in an effort to continue to control the cost of health insurance provided for district employees, West Ada has been researching implementing a self-funded insurance program. The initial investigation shows that implementing a self-funded plan has the potential to reduce insurance costs. The district estimates a savings of $1 million per year, which can be used to hire teachers, purchase books or provide technology in the classroom.

Mr. Exline indicated that starting such a program would require careful planning to make sure that the program is fiscally sound and meets the requirements currently set forth in Idaho Code. Creating an appropriate reserve account is a very important part of the process. **Mr. Exline** stated that by making a change in the current code, there would be a greater opportunity for West Ada School District to pursue the opportunity to save money on the cost of employees' health insurance while ensuring that the plan is fiscally sound and protects employees' health benefits.

DISCUSSION: **Senator Burgoyne** asked that if there was no amendment, what would the constraints be for the district. **Mr. Exline** explained it would be hard to build up the required reserves in one year.

Kelly Grebinsky, Actuary, representing Emmett School District, said that in order for Emmett School District to self-insure, a bond of $2.5 million had to be posted. Risk is eliminated if funds can be raised in 24 months.

Chairman Patrick asked if it would be better to combine small school districts in order to increase the pool and reduce risk. **Mr. Grebinsky** said that the requirements are different for a pool.

Vice Chairman Guthrie asked about the risk. **Mr. Grebinsky** stated the insurance company would cover aggregate insurance. **Senator Burgoyne** asked if reinsurance is required in these types of situations. He asked if claims would go against the plan and not the school district. **Mr. Grebinsky** stated the claims are separate from the school district operating budget. Any gains or savings from a self-funded plan remain on the health plan side of the books. **Senator Burgoyne** wanted to be reassured the school district would not be at risk. **Mr. Grebinsky** said that once the surplus levels are reached and maintained, there is no risk to the district. There is risk to the District during the time it takes to build reserves. The goal is to minimize the risk.

Superintendent Wayne Rush, Emmett School District, commented that the school district was trying to find creative ways to manage money. The district has a $500,000 contingency fund. The District would be allowed to put $200,000 in a plan for health insurance. The District knows they will have enough cash on hand without endangering the District.

Chairman Patrick asked if adding another 12 months was risky. **Dean Cameron**, Director, Department of Insurance (DOI), said obviously self-funding is not appropriate in every circumstance. Employees of a district should be carefully considered. Meeting a reserve requirement in 12 months is difficult. This provision of the law could be modified, but all other conditions must be met. The DOI does not regulate the school district, but self-funded plans are regulated. The DOI already has the authority to promulgate rules relating to self-funded plans.

MOTION: **Vice Chairman Guthrie** moved that **S 1117** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion.

Senator Burgoyne mentioned he supported the motion, but was not sure how he would vote on the floor of the Senate.

The motion carried by **voice vote**.

PRESENTATION: **International Chamber of Commerce**. **Megan Ronk**, Director, Department of Commerce (DOC), introduced Eddie Yen (Asia Office). **Ms. Ronk** said that Tara Qu (China Office) and Fabiola McClellan (Mexico Office) had presentations in the House and all had an appointment with the Governor. **Mr. Yen** talked about the activities of his office and that of the China office, which included Idaho exports to Taiwan. Taiwan is currently Idaho's third largest export market. Idaho exports beef to Taiwan and China. He remarked that Taiwan was now doing business with Vietnam. There will be another trade mission in Taiwan in November.

Senator Martin thanked Mr. Yen for his presentation. **Senator Anthon** thanked the Department of Commerce for their efforts.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:57 p.m.

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Senator Patrick
Chair

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Linda Kambeitz
Secretary