MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE:	Thursday, March 26, 2015
TIME:	1:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Tippets, Vice Chairman Patrick, Senators Cameron, Martin, Lakey, Heider, Lee, Schmidt and Ward-Engelking
ABSENT/ EXCUSED:	None
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 Tippets** called the meeting to order at 1:00 p.m.
MINUTES APPROVAL:	**Senator Heider** moved to approve the Minutes of March 19, 2015. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
HONORING OF PAGE:	**Chairman Tippets** honored Page Samantha Mooney. He said the best pages are always assigned to the Committee and Samantha has done an outstanding job. **Samantha Mooney** shared what she learned while being a Senate Page and said she has loved serving on the best committee. She said she was hoping to go into international relations and serve as a Foreign Service Officer. She said she admires the Senators because they try to do everything they can to serve the citizens, and she is honored to be in the page program. **Ms. Mooney** said she applied to the colleges of Grinnell, Iowa; Linfield, Oregon; and Barnard, New York and she was hoping to be accepted by one of them. **Chairman Tippets** thanked Ms. Mooney, and said she was an exceptional page and the Committee wished her the very best.
H 182AA:	**Amending Existing Insurance Law**. **Tim Olson**, Pinnacle Business Group, representing the Idaho Life and Health Guarantee Association, testified in support of the bill. He said the bill excludes Consumer Operated and Oriented Health Plans (CO-OPS) established under the Affordable Care Act (ACA) from coverage by the Idaho Life and Health Insurance Guaranty Association. CO-OPS are eligible for funding from the federal government to cover costs associated with start-up and operations. The bill also adds wording found in the National Association of Insurance Commissioners (NAIC) Model Life and Health Insurance Guaranty Association Act that permits the guaranty association to exclude from membership entities that are similar to entities excluded by the law. Based on an analysis of the licensing of the CO-OPS in the various states, the 23 federally-funded CO-OPS are not members of the guaranty associations in roughly half of the states in which they are operating. Even more guaranty associations will find that the CO-OPS in their states are not members according to the NAIC Model Act language that excludes "entities similar to" those already excluded by state guaranty association law. The CO-OP that is operating in Idaho is not a member of the guaranty association in its home state of Montana. It is licensed as a managed care organization in Idaho (making it by default a member of the association) because the licensing classification it has in Montana is not available in Idaho. CO-OPS are not members of the guaranty associations in the neighboring states of Oregon and Nevada. **Mr. Olson** said the leadership of the Mountain Health Cooperative operating in

Idaho and the Idaho Department of Insurance (DOI) have been notified of this proposed legislation.

There is no direct impact to the General Fund. However, if a CO-OP were to fail in Idaho, this legislation would result in a savings to the General Fund to the extent insurers would have offset from their premium tax liabilities any guaranty association assessments that would have been made if the CO-OP had been a member of the guaranty association.

Senator Lakey asked Mr. Olson to expound on the federal support and funding for these types of CO-OPS. **Mr. Olson** said that when CO-OPS were developed, they provided federal taxes for set up loans and insolvency loans to operate within the states. They were specifically designed to give the consumer another option of buying insurance. There was approximately $6 billion initially made available for granting, but the amount has been decreased to less than $3 billion. No other federally subsidized CO-OPS will be granted admission other than the 23.

Senator Cameron said that there is a CO-OP in Idaho under a restrictive conditional permit, and he wanted to know if Tom Donovan could explain the actions of the DOI with the Montana CO-OP related to the concerns of the DOI. **Tom Donovan**, Acting Director, DOI, said the Montana Health CO-OP based in the State of Montana, applied to the DOI for a certificate of authority as a managed care organization, which is specifically provided for in Chapter 39, Title 41, which includes the ability to write disability insurance. This has been done with other companies as well. In June of last year, new conditions were placed on admission. One condition was placed on the Montana CO-OP; they were required to place an additional $1.5 million deposit with the DOI for the protection of Idaho policy holders. There was a limit placed on the ability to enter into new contracts or to sell new insurance contracts should the CO-OPS Risk Based Capital (RBC) level fall below 500 percent. This is a filing that companies make annually. Monthly reporting was required in addition to quarterly and annual statements starting in January of 2014. All of these conditions were agreed to by the Montana CO-OP.

Senator Lakey wanted to know if a CO-OP were to get out of the guaranty association these conditions would remain in place or if then would change. **Mr. Donovan** said those conditions would remain in place. The term of those conditions is somewhat indefinite, but they are to be in place for a target time of five years. It is indeterminate in the sense that the CO-OP can request from the Director permission to have the conditions released.

MOTION: **Senator Lakey** moved to send **H 182aa** to the floor with a **do pass** recommendation. **Senator Cameron** seconded the motion. The motion carried by **voice vote**. Senator Lakey will carry the bill on the floor.

H 256: **Norm Semanko**, Idaho Water Users Association (Association), said the purpose of this legislation is to eliminate a duplicative statutory requirement placed on irrigation ditch and canal maintenance and repair work. The provisions of Chapter 12, Title 42, Idaho Code require that such work be done in a manner so as to prevent damage or injury to the property or premises of others. This legislation would eliminate the duplicative requirement placed on canal and ditch maintenance and repair work by Idaho Code § 54-1218. This legislation has no fiscal impact.

Vice Chairman Patrick stated that maintenance is not engineered, so when excavation tracks are left on a lawn, who is liable. **Mr. Semanko** said that is exactly the kind of issue that is governed under Chapter 12, Title 42. The Association can only do what is reasonably necessary for the repair and maintenance work that needs to be done and property cannot be damaged. **Vice Chairman Patrick** said his concern was the word "damage" is subjective. Damage to one person is

different than to another when tracks are left on a lawn near the waterway. To some people that is a lot of damage. **Mr. Semanko** said in exercising the rights and responsibilities of the Association under code to maintain a ditch, if the Association is on the right-of-way, the Association is not responsible. He said the code outlines the types of equipment that are reasonable and necessary to use for the work that needs to be done.

MOTION: **Senator Patrick** moved to send **H 256** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**. Senator Patrick will carry the bill on the floor.

H 277: **Lyn Darrington**, Idaho Land Title Association (Association), said this legislation clarifies that a title insurer may issue closing or settlement protection to a buyer, borrower or lender who is party to a transaction in which a title policy is issued. This bill is a concept that the underwriters have been working on for some time. It codifies a current business practice that has become an industry standard. This bill addresses the practice of issuing a closing or settlement protection letter. Closing Protection Letters (CPL) have been part of the real estate closing process for many years. Lenders usually require a title underwriter to issue a CPL before a loan is funded during a closing. CPL's protect buyers, borrowers and lenders against theft of closing funds or failure to comply with written closing instructions.

Ms. Darrington said **H 277** includes language that the Idaho Association of Realtors and the Idaho Bankers Association recommended. It also has been reviewed by the DOI. This bill does two things. It codifies the existing practice of issuing CPLs and clarifies that the closing protection letter is part of the title insurance product.

Ms. Darrington referred to page one of the bill. The new language in lines 34-35 adds the CPL to the title insurance product. The bill caps the rate that can be charged for a CPL. All rates are filed with the DOI. She said on page 2, § 41-2705 of the bill talks about the policy forms that must be submitted to the DOI when title insurance policies and rates are filed. The new language in this section adds the CPL to those documents the title insurers file with the Department.

The new section, which appears on page 3, is § 41-2714, which specifically addresses the CPL. Paragraph (1) states that title insurers may issue a CPL and that it will be filed with the DOI. Paragraph (2) speaks to what losses the CPL insures the buyer, borrower and lender against. Paragraph (2)(a) on lines 11 and (2)(b) on line 15 references theft or misappropriation of settlement funds and failure to comply with the written closing instructions. On line 23 of paragraph (3) is language the realtors asked be included. The CPL covers buyers, borrowers and lenders with a single transaction. The Association wanted to make it clear that a CPL is considered one transaction for which a single rate is charged and covers all the parties which includes the buyer, the borrower and the lender. In lines 28-31 the rate must be filed with the DOI when all policies and rates are filed, be the only rate charged for closing protection and not exceed $25. Section (4) states that only a CPL can provide this type of protection.

And finally, section (5) is language requested by the Bankers Association. It states that a buyer, borrower, lender or a title insurer retains all their respective rights and remedies in connection with these types of losses, except as otherwise provided for in the language of the CPL.

Ms. Darrington said she was not aware of any opposition. The bill codifies an existing business practice that has occurred for many years. This legislation has no fiscal impact.

Ms. Darrington said the DOI has reviewed the bill and wanted to send the bill to the 14th order for amendment due to a grammatical error. She also referred to the use of the words "rate" and "premium" and said the DOI clarified these two words are used synonymously in the insurance code.

Senator Cameron referred to the top of page 3 relating to "a title insurer may issue a closing protection" and wanted to know why that is permissive instead of using the word "shall." **Ms. Darrington** explained that not all lenders require a closing protection.

Chairman Tippets wanted an explanation of the language on line 20, page 3, "a rate must be charged" and he wanted to know why this was being mandated. **Ms. Darrington** said this becomes part of the title insurance. Title offerings are used to directly compete, so this establishes a ceiling on the charges.

MOTION: **Senator Martin** moved to send **H 277** to the floor to the 14th Order for possible amendment. **Senator Heider** seconded the motion.

Senator Cameron explained there is a provision where a typo or insignificant changes to be made to a bill can be done without sending it to the 14th Order. He asked Chairman Tippets if this could be handled in Committee. **Chairman Tippets** said he was not able to determine the intent. He referred to the wording "provided for closing". **Senator Martin** said he was willing to amend his motion to a "do pass" recommendation. **Senator Cameron** suggested the bill could be sent to the floor and if needed the bill could be moved into the Amending Order. He said if the bill did not have to be amended and no rule was being violated, he thought it would be acceptable to ask to have the word "in" be inserted, as it was inadvertently left off when drafted. **Chairman Tippets** stated he would not be uncomfortable with the bill being sent to the floor with the caveat that if ruled by others the change cannnot be made, a request could be made to move the bill to the 14th Order.

SUBSTITUTE MOTION: **Senator Martin** moved to send **H 277** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Martin will carry the bill on the floor.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of March 17, 2015. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

THANK YOU: **Chairman Tippets** thanked the Secretary and the Committee for all of their hard work. He said this could be the last meeting of the Committee, subject to the call of the Chair.

ADJOURNED: There being no further business, **Chairman Tippets** adjourned the meeting at 1:42 p.m.

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Senator Tippets
Chair

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Linda Kambeitz
Secretary