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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/07

SPONSOR Leavell LAST UPDATED _____ HB _____

SHORT TITLE Interstate Insurance Product Regulation SB 14

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 14 permits New Mexico to join a group of compacting states that will serve as a filing clearinghouse for the review of annuity, life insurance, disability income and long-term care insurance product filings and advertisements under a set of uniform standards. New Mexico would participate in an *Interstate Compact Commission* that will exercise rulemaking for products and advertisements, as well as certain enforcement authority. The *Interstate Compact Commission* would collect filing fees. This legislation provides a procedure for states to opt-out from participation in the Compact.

FISCAL IMPLICATIONS

PRC notes that participation in the Compact has no fiscal impact on the participating states. The compact is financed by filing fees paid by insurers with funding from the NAIC. Senate Bill 14 would be revenue neutral. Existing statutory fees associated with forms and rate filings in the New Mexico Insurance Code would be collected by the *Interstate Compact Commission* and remitted to the State of New Mexico.

SIGNIFICANT ISSUES

This legislation is based on a National Association of Insurance Commissioners (NAIC) model law, which has been endorsed by the National Council of State Legislators (NCSL) and the National Council of Insurance Legislators (NCOIL). NAIC developed the compact in 2003 after working with the National Association of Attorneys General and the National Conference of Insurance Legislators. As of January 2007, 29 states have enacted the compact into law, and legislation has been introduced or is pending in eight other states.

This legislation would cede a certain amount of regulatory authority over life, annuity, disability and long-term care products to an interstate compact, rather than retaining this regulatory authority in New Mexico under the Insurance Division of the PRC.

Proponents would argue that this legislation would stave of the threat of federal preemption by offering a state-based solution that provides uniformity, speed-to-market and single-point filing.

Opponents would argue that it diminishes the local “hands-on” authority of the Superintendent to regulate the life, annuity, disability and long-term care markets in New Mexico.

PERFORMANCE IMPLICATIONS

According to PRC, Senate Bill 14 would relieve the Superintendent of Insurance of some of the day-to-day review and processing of form and rate filings. Companies will retain the choice of filing products through the compact or directly with the Insurance Division. Insurance Division staff resources currently performing these functions may be reassigned and trained for other areas within the Insurance Division. The Superintendent would also be relieved of certain rule-making authority that would be assumed by the *Interstate Compact Commission*, although New Mexico could opt-out of a proposed uniform standard if it does not provide reasonable protection for the citizens of New Mexico.

ADMINISTRATIVE IMPLICATIONS

According to the terms of the compact, the Insurance Division of PRC would designate one voting member to represent New Mexico in the Compact and may serve on management and legislative committees. This individual, most likely the Insurance Division’s Chief Life & Health Actuary, would attend meetings. The Superintendent would continue to perform form and rate review and fee collections for products filed directly by insurance companies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PRC notes the following consequences:

In the near term, if New Mexico does not become a compact member, then insurers will have to make separate filings in New Mexico in addition to their product filings with the compact. Some insurers may decide not to file new products in New Mexico because of this additional expense. This could result in New Mexicans not having access to the latest developed insurance products offered by the industry. This could indirectly reduce the availability of insurance products in New Mexico.

In the long term, failure of states to join a compact may drive federal action on this issue. Over the past few years, Congress has explored legislative proposals to create an optional federal charter for insurance companies or establish national regulatory standards for insurance companies and producers. These proposals have arisen out of the insurance industry's arguments that States cannot achieve uniformity or speed-to-market goals, hindering their ability to effectively compete in the national and international arenas against other sectors of the financial services industry. NAIC opposes federal regulation of insurance.

Consistent with the NAIC, it is PRC's position that the most valuable feature or legacy of the 130 year-old state insurance regulatory systems is local access. More specific, having an Insurance Department and an Insurance Superintendent in Santa Fe ensures that each New Mexico consumer, each New Mexico insurance company, each New Mexico bank or investment firm and each New Mexico insurance producer can pick up the phone or drive to Santa Fe and meet face-to-face with the Superintendent and his staff.

New Mexico companies, consumers and producers have a voice that the large national insurance companies cannot avoid. This system allows the Superintendent to protect New Mexico consumers and promote the healthy competitiveness of the New Mexico insurance market, in the interests of New Mexico. A federal authority won't have New Mexico's interests at heart or be inclined to pick up the phone. New Mexico will lose control and local access.

The Interstate Compact proposed in this legislation is a state response to avoid federal preemption through a state-based solution that offers uniform standards, single point filing and speed-to-market.

BE/nt