State of Utah

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Governor

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Lieutenant Governor

NEAL T. GOOCH
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Insurance Department

August 3, 2012

Senator John L. Valentine, Senate Chair
Rep. James A. Dunnigan, House Chair
Business and Labor Interim Committee
Office of Legislative Research and General Counsel
House Building, Suite W210
Salt Lake City, Utah 84114-5210

Re: Sunset Review of Utah Code Ann. § 31A-2-217

Dear Senator Valentine and Representative Dunnigan:

Pursuant to the request of Associate General Counsel, I am providing the information your committee needs to evaluate reauthorization of Utah Code Ann. § 31A-2-217. This section authorizes the insurance commissioner to coordinate the regulation of certain aspects of insurance with other state insurance regulators. Since the last Sunset Review in June 2002, the Insurance Commissioner has not needed to rely on this statute to coordinate insurance regulation with other state regulators rather the Insurance Commissioner has approached the legislature with legislation to address specific issues that could have been addressed by use of this statute. An example would be the adoption of the Interstate Insurance Product Regulation Compact, Utah Code Ann. § 31A-39-101, et. seq., by the Legislature in 2004, which was sponsored by Sen.Valentine.

However, the agreements reported in November 2001 continue to be in force and if the provision is sunsetted, these agreements will no longer be valid as they were entered into under the authority of this provision. The agreements reported in 2001 were to facilitate reciprocity for producers between states and to create a uniform system of producer licensing.

The agreements with federal agencies reported in November 2001 continue to be in force and permit the department to exchange information relating to provide protection of consumers of insurance and banking products mainly variable annuities and similar products. In addition Rule R590-208 which authorizes insurance companies to obtain a certificate of authority through the use of a uniform application submitted to most if not all states would be affected by repeal of the statute.

No other agreements have been entered into since the last review come within the purview of the statute. I believe that the statute gives me the ability to coordinate insurance regulation with other insurance regulators and federal agencies when that ability is needed. Uniform insurance regulation continues to

be an issue in Congress and the statute will continue to allow be to be nimble in fighting off attempts to move the regulation of insurance to the federal government.

The criteria stated in Utah Code Ann. § 63I-1-103 are indicated below immediately followed by the department's response.

1. **To what extent does the statute or agency operate in the public interest and are there any areas in which the statute or agency needs to improve its ability to operate in the public interests.**

   The statute gives the commissioner important tools that he can utilize and serve the public interest to provide a uniform, efficient, reasonable regulatory environment. It authorizes the commissioner to enter into agreements with other governmental agencies, both state and federal or with the National Association of Insurance Commissioners to address reciprocal or uniform licensing of companies and agents, uniform insurance standards. It authorizes the use of interstate compacts for the same purposes. It gives the commissioner the ability to ensure that the industry operates under uniform accounting standards. These capabilities serve the public interest in an efficient, uniform, and reasonable state regulatory system. If the states do not foster such a system, the regulation of insurance will move to the federal level under existing and probable future federal mandates.

   An improvement to the stature would be to make this a standing part of the insurance code with an annual reporting requirement to the legislature rather than having the statue under sunset review.

2. **To what extent do existing statues interfere with or assist the legitimate functions of the statue or agency, and any other circumstances including budgetary, resource, and personnel matters that have a bearing on the capacity of the statute or agency to serve the public interest?**

   The Utah Insurance Code does not have any provisions that would serve the same purpose and functions as Section 31A-2-217. Without the sections the ability of the commissioner to reach such agreements and enter into interstate compacts is in question.

3. **To what extent is the public encouraged to participate in the adoption of the rules established in connection with the statue or agency?**

   Any rule adopted under Section 31A-3-217, is done under the usual rulemaking process. The department develops a draft that is circulated to affected parties and discusses the proposal with them and makes applicable revision. The revised rule is set for formal comment and hearing. The public and interested parties have full access to the proposed rule and participate fully in rulemaking proceedings.

4. **To what extent are the statute's provisions or agency's programs and services duplicative of those offered by other statutes or state agencies?**

The department is not aware of any other statue that duplicate Utah Code Ann. § 31A-2-217

5. **To what extent are the objectives of the statue or agency accomplished and their public benefit?**

   The department has entered into agreements with multiple states that permit their residents to apply for an agent license in Utah on a reciprocal basis. The department licenses about 90,000 agents with about 40,000 of them being non-residents. This provides the public access to the insurance distribution system.

   An agreement also is in place that relates to continuing education requirements for agents licensed by the department. This agreement permits continuing education acquired in another state to qualify in Utah to meet its CE requirements.

   Agreements with Federal Reserve Board of Governors, the Office of the Comptroller of the Currency, the Office of Thrift Supervision are in place to share the information relating to consumer complaints and financial institutions' information.

6. **What would be the adverse effect, if any on the public of terminating the statue or agency?**

   The agreements with Federal Reserve Board of Governors, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and more than thirty other states would no longer be valid. Utah would not be reciprocal or uniform with other states. This would be a step backward from a uniform, efficient, cooperative state regulatory system.

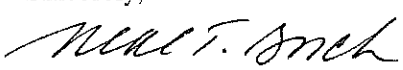
7. **Are there any other matters relevant to the review of the statue or agency?**

   The Utah and national insurance markets and the public benefit from the agreements that are permitted under Utah Code Ann. §31A-2-217. Without the statue those agreements will no longer be valid and the public will suffer.

I encourage the committee to reauthorize Utah Code Ann. § 31A-2-217 for a least another ten years. I request that the provision be removed from sunset review and be made a permanent part of the insurance code.

I look forward to working with the committee in the interim committee meetings where I can be of help. If you or the staff have any questions please give me a call at (801) 538-3804.

Sincerely,



Neal T. Gooch

Cc: Brett Barratt
Tanji Northrup