

## MINUTES

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

- DATE:** Thursday, February 07, 2013
- TIME:** 1:30 P.M.
- PLACE:** Auditorium Room WW02
- MEMBERS PRESENT:** Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Martin, Lakey, Schmidt and Durst
- ABSENT/ EXCUSED:**
- 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:** The meeting was called to order at 1:30 p.m. by **Chairman Tippetts**.
- MOTION:** **Senator Lakey** moved to approve the minutes of January 29, 2013. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
- GUBERNATORIAL APPOINTMENT:** The appointment of Thomas E. Limbaugh of Fruitland, Idaho, to the Idaho Industrial Commission, to serve a term commencing January 14, 2013 and expiring January 14, 2019.
- Thomas Limbaugh** said he was an Idaho Industrial Commissioner from 2001 to present. He was an Idaho Bureau of Occupational Licenses Bureau Chief from 1999 to 2001 and a farm co-owner and manager. In addition, he was mayor of the city of Fruitland from 1994 to 2010 and a 4-H leader from 1990 to 1999. He briefly served in the legislature and was a member of the Joint Finance Appropriations Committee (JFAC). **Senator Tippetts** said he had the privilege of serving in the House with Mr. Limbaugh and commended him for his service. **Senator Schmidt** said he appreciated Mr. Limbaugh's service to the state.
- MOTION:** **Senator Schmidt** moved to send the gubernatorial appointment of Thomas E. Limbaugh to the Idaho Industrial Commission, to the floor with the recommendation that it be confirmed by the Senate. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. Senator Pearce will carry the appointment on the floor of the Senate.
- GUBERNATORIAL APPOINTMENT:** The appointment of Diana M. Bishop of Orofino, Idaho, to the Idaho Personnel Commission to serve a term commencing December 6, 2012 and expiring July 1, 2018.
- Diana Bishop** said she had a background in personnel management for 33 years with the United States Forest Service and would like to use her experience to assist the State of Idaho in making the best decisions involving employees who have had allegations made regarding their behavior and/or their performance and wanted to insure that no one was wrongfully fired. **Senator Schmidt** asked her if she was comfortable with declaring her political party affiliation and she said, "yes".
- MOTION:** **Senator Schmidt** moved to send the gubernatorial appointment of Diana M. Bishop to the Idaho Personnel Commission, to the floor with the recommendation that it be confirmed by the Senate. **Senator Durst** seconded the motion. The motion carried by **voice vote**. Senator Nuxoll will carry the appointment on the floor of the Senate.

**RS 21879** Relating to the Authorization of Professional and Occupational Licensing Boards Expediting Occupational Licensure for Active-duty Service Members and Spouses. **Senator Branden Durst** presented this RS. He said it replaced **RS 21709**. He indicated this legislation authorized professional and occupational licensure for active-duty service members and their spouses, with the requirement that the license seeker had an equivalent license in another state, commonwealth, possession or territory of the United States or the District of Columbia. He said this legislation would put qualified veterans and their spouses to work quickly.

**MOTION:** **Senator Lakey** moved to print **RS 21879**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**Chairman Tippetts** explained the Routing Slip (RS) process and how the RS could become a bill. He mentioned there were people in the audience who wore a pink swatch on their clothing, which demonstrated opposition to the proposed health insurance exchange. He thanked those wearing the swatch for their respect. He said testimony would be limited to three minutes per person. He said that multiple people could not yield their time to another person so that person could have more time. After testimony was heard he said, the committee would discuss the bill. He reviewed the basic protocol for testifying and asked that those testifying say and spell their names and state who they represented. Written testimony could be placed in the basket near the podium. He cautioned the audience about maintaining a sense of decorum with no applause, cheering or boing.

**S 1042** Continuation of Hearing of the Health Insurance Exchange. **Vice Chairman Patrick** called people to testify, alternating between those who were in support of and those who were in opposition to the bill.

**TESTIMONY:** **Peggy Munson**, AARP State Volunteer President and retired geriatric nurse, submitted written testimony and testified in support of the bill. She urged the committee to support the bill, so Idaho could have the opportunity to take responsibility for and control of its insurance marketplace (see attachment 1). **Tom Munds** of Caldwell, Idaho, spoke in opposition to the bill and said he was concerned about the encroachment on people's lives. He questioned the integrity and backbone of our state government. He said the system of health care should be done by the constitutional process. **Jeanne Brandone**, who represented eHealthApp, a company which supplies software for small businesses, said there were over 40,000 Idahoans who utilized eHealthApp to help them find low cost insurance. She said a state-based exchange would help Idaho businesses manage enrollment. She said if Idaho did nothing and defaulted to the feds, Idaho individuals and small businesses would have two disjointed programs. **Terry Yohn**, represented himself, and asked if there had been contact with other states. He said he had many questions and wanted more information. He opposed the state-run exchange. **Scott Leavitt**, Idaho Association of Health Underwriters, said he supported the state-based exchange because he felt there was no other option. He said an exchange would happen and Idaho would have more options and be able to control costs more effectively. He pointed out that if we were under the federal government, we would lose control. He said brokers and agents would lose their jobs and money would be diverted to the feds to run their exchange. He said he wanted support for a state-based exchange. **Joe Rohner**, represented himself, submitted written testimony and said he was deeply disappointed with Obamacare and with Governor Otter. He stated Obamacare would ruin the economy. There were twenty hidden tax hikes in Obamacare and the plan would cost approximately \$20,000 per family (see attachment 2). **Rod Beck**, a former State Senator, said he was opposed to **S 1042** because it created an independent body with no oversight. He said the costs were unknown and the state exchange

would not regulate how much a person could be charged. He said the state exchange would have unlimited taxing and regulatory powers.

**Senator Goedde** asked Mr. Beck if the governing body was set up with more legislative oversight, would he favor the state-run health insurance exchange. **Mr. Beck** said he had no problem with setting up a marketplace like the State of Utah. The application could be expanded universally. The State of Utah was not going to do a state exchange, but would continue the universal application process. They would not do the other portions, as dictated by the federal government. **Mr. Beck** said he would support a universal application. He would support a decision by the governor to not move forward with the approval to require the state to comply with the laws of the federal exchange.

**Senator Durst** said he had serious problems with the legislation. He asked Mr. Beck what we should be doing differently relating to oversight. **Mr. Beck** said he did not believe that this legislature should ever give up its oversight and responsibility under any circumstance. He said he would want strict and strenuous oversight. He wouldn't want the state exchange unless he knew exactly what the state was getting into and what our responsibilities were going to be.

**Steve Thomas**, from the Idaho Association of Health Plans, testified in favor of **S 1042**. He said Idaho could run the health exchange more efficiently and better than the feds. An exchange would keep millions of dollars in Idaho and would maximize local control. He said the opposition answered the wrong questions. He said the bill did not mandate Idahoans use the exchange and the bill was about a market-based concept.

**Tony Snesko**, represented himself and his wife, submitted written testimony and said he spoke on behalf of fellow veterans, saying our rights were in jeopardy today. Obamacare and Ottercare could go bankrupt if they did not have the power to raise fees and tax Idaho citizens and businesses. He challenged the committee to think about the voters they represented and not burden them unfairly (see attachment 3).

**Tom Shores**, represented himself, submitted written testimony, and stated he was President of the State Health Underwriters and Independent Insurance Agents and Brokers of Idaho. He urged the committee to look at the facts and support Governor Otter and pass the Idaho Exchange Bill (see attachment 4).

**Senator Goedde** asked Mr. Shores if a private exchange were established, and we did not establish a state-based exchange, would we then be subject to a federal exchange. **Mr. Shores** answered that on January 1, 2014 we will have a federal or state-based exchange, regardless of what anyone else does. If a private exchange were to be set up, it would still be subject to the laws of the federal exchange. He said if he had a business and he had more than fifty employees, he would be responsible for paying a penalty of \$2,000 per employee per year, plus expenses and other things. He said that was not a solution. **Senator Goedde** asked if the premium subsidies available for a federal exchange would be available for a state exchange. **Mr. Shores** replied, "no".

**Stephen Ackerman**, represented himself, submitted written testimony, and recommended the committee not support the bill. He said the state exchange was not good because the rules were based on the federal rules. He indicated at least 25 other states said "no" to a state exchange. Why would these states say "no" to a state exchange if they thought it would decimate their insurance companies? He said the scope of the benefits were not clearly defined in the state-run exchange (see attachment 5).

**David Watton**, a resident of Boise and an insurance small business owner, said he supported the state-based exchange. **Sheila Ford**, represented herself, submitted written testimony, and asked where the money would come from to support a state exchange. She questioned how the federal government had the money to give to states for the Affordable Care Act. She said all the states that have refused to participate were doing their best to ensure they didn't cause more enormous debt payments to be confiscated out of our children's and grandchildren's paychecks (see attachment 6).

**Corey Surber**, who represented Saint Alphonsus Health System as Director of Community Health Initiatives, submitted written testimony, and said Saint Alphonsus Hospital administration believed that local control and accountability, through a state-run exchange, would result in a less expensive, more flexible mechanism to get uninsured citizens and small businesses into affordable coverage, and stay nimble and responsive to the ever-changing needs in the State of Idaho (see attachment 7).

**Former Representative Janice McGeachin**, a small business owner, said she was opposed to the state and federal exchanges. She expressed concerns about the effect the exchanges would have on her business. She said we do not have full knowledge of the contents of the exchange and the exchange must not establish rules that conflict with or prevent the rules promulgated by the Health Freedom Act. She was also concerned about the lack of legislative oversight.

**Vice Chairman Patrick** asked former Representative Janice McGeachin, to clarify the option of saying "no" to the federal mandate. She said the law said the state could establish their own exchange, but they must follow the rules and regulations of the federal government.

Attachments A-N were transmitted as written testimony by individuals that did not testify during the meeting (see attachments A-N).

**David Hensley**, Chief of Staff from the governor's office, said there would be an exchange in the state. He reiterated there was \$20 million of federal grant money to build the exchange and other money would be available from grants with a deadline of December 2014. He said the federal government had proposed a 3.5 percent premium tax. He stated there would still be a market outside of the exchange for people to shop, compare and purchase insurance. He said we always have the ability to legislate and address any issue of the exchange on policies for the State of Idaho. He indicated that Governor Otter spoke with the governor of Utah recently about their exchange. Utah had selected to continue its Avenue H exchange and would not do an individual exchange. Further, he stated, **S 1042** did not violate the Idaho Health Freedom Act, according to the opinion of the Attorney General. He urged the committee to look beyond the important work of changing a misguided federal law to the essential task at hand, preserving for Idaho citizens the option of having a voice in one element of the law.

**Senator Durst** had a conversation with **Mr. Hensley** about the oversight by the board, the role of the legislature, and the duties of the Director of the Department of Insurance related to changing the bylaws. They talked about flexibility for this entity and other independent agencies. **Mr. Hensley** talked about the oversight provided in the bill to make sure the agency had flexibility. Other oversight was provided, he said, with respect to confirmation by the Senate. The legislature did not specifically get to approve the bylaws, however, **Senator Durst** said the legislation had an emergency enactment clause. Was it the intent of the governor to appoint members prior to the end of this session or would he appoint the members during the next session. **Mr. Hensley** said it was his hope the governor would make the appointments while the legislature was still in session.

**Senator Lakey** had a conversation with **Mr. Hensley** about the costs ranging from \$4 to \$7 per member, per month for 177,000 individuals based on small businesses insured in 2011. They discussed the process of determining the federal costs in which the federal government proposed to apply 3.5 percent premium tax on policies purchased within the federal exchange. They talked about the average cost of a policy for individuals in small businesses of \$4,650 a year and how those figures were used to estimate the \$28 million. The estimate for the ongoing costs to run a state-based exchange was \$10 million. **Mr. Hensley** said they used the figure of 177,000 individual participants per year at a cost of \$10 million a year to arrive at the \$4.80 premium tax. They discussed how costs may vary, depending upon the number of people participating in the exchange.

**MOTION:**

**Senator Cameron** moved that **S 1042** be send to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

**Senator Durst** said he was struggling with the motion, but he supported a vast majority of the federal health care law and he was worried about the vehicle in **S 1042**. He said he thought the senators were abdicating their responsibility, oversight and appropriation power, and he said he felt this issue was one the full senate needed to address. He said he would prefer this have no recommendation.

**Senator Cameron** stated he had a potential conflict of interest pursuant to Senate Rule 39 because he sells health insurance and other products. He said he opposed Obamacare and had strong, passionate feelings about the constitutionality of the act. He was hopeful the Supreme Court would overturn the Affordable Care Act, but, he said, the option had long passed. He said he saw significant differences between federal and state exchanges. He said if we had the federal exchange, we would end up with a nationwide carrier and a few others the feds would allow. All other carriers would have to apply to participate, and if requirements were not met, they would not be allowed to participate. He felt mandates by the federal government would cause rates to increase. He addressed Senator Durst's concern about oversight and said the exchange would operate like other similar entities, such as the State Insurance Fund and the Idaho Housing Authority. He said he wished we had another choice. He commended Governor Otter for doing what he thought was right and, he said, we had an obligation to move forward.

**Senators Goedde, Lakey, Schmidt** and **Patrick** talked about being supportive of the bill, saying they had all received input from both sides and did not like Obamacare. They discussed their dislike of a federal mandate, the fact they were frustrated, the thought the law was unconstitutional and the federal government exchange was the worst option. They agreed the state exchange had some potential and that open discussion was necessary in moving forward.

**ROLL CALL  
VOTE:**

**Chairman Tippetts** called for a **roll call vote** for Senator Cameron's motion. **Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Martin, Lakey, Schmidt** and **Chairman Tippetts** voted **aye**. **Senator Durst** voted **nay**. The motion carried.

Chairman Tippetts will carry the bill on the floor of the Senate.

**ADJOURNED:**

There being no further business, **Chairman Tippetts** adjourned the meeting at 3:10 p.m.

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Senator Tippetts  
Chairman

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Linda Kambeitz  
Secretary