

MINUTES
HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 13, 2014
TIME: 2:00 pm or Upon Adjournment of the House
PLACE: Room EW05
MEMBERS: Chairman Hartgen, Vice Chairman Anderson(31), Representatives Loertscher, Anderst, Hancey, Harris, Holtzclaw, Mendive, Romrell, VanOrden, King, Woodings
**ABSENT/
EXCUSED:** None
GUESTS: Frank Monasterio, St. Vincent de Paul, Voice of the Poor; Dawn Juker, Catholic Charities; Mike Larson, Idaho Department of Finance; Terri Sterling, Ruby Mendez and Krista Bustamante, ICAN; Trent Matson, MoneyTree, Inc.; Cristina McNeil, citizen

Chairman Hartgen called the meeting to order at 2:00 p.m.

MOTION: **Rep. Woodings** made a motion to approve the minutes of March 3, 2014. **Motion carried by voice vote.**

MOTION: **Rep. Woodings** made a motion to approve the minutes of March 5, 2014. **Motion carried by voice vote.**

S 1359: **Senator Johnson** presented **S 1359**. This would exempt the owner of a sole proprietorship and his family members working in his business from workers' compensation (work comp) requirements under Idaho Code 72-212. It would clarify that a single member limited liability company (LLC) being taxed as a sole proprietorship is also treated as a sole proprietorship for purposes of the work comp exemption.

MOTION: **Rep. Woodings** made a motion to send **S 1359** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Woodings** will sponsor the bill on the floor.

S 1314: **Senator Heider** presented **S 1314**, which relates to payday loans. The Department of Finance produced this bill after borrowers were put in difficult situations. The bill has the support of the Department and the payday lending community. There are three things accomplished by this bill: First, the payday lender would not be able to present more than two times the borrower's check to the depository institution. Second, a limit of 25% of the borrower's gross monthly income would be the maximum of any payday loan. The borrower would have to prove this income by producing pay stubs or signing an affidavit. Third, one time per year, a borrower would be allowed to enter into extended payment plans to complete required payments at no additional charge.

In response to questions, **Senator Heider** said there will be no additional fees assessed against an individual's loan when the once-a-year extension is granted.

Frank Monasterio, St. Vincent de Paul, Voice of the Poor, testified in **opposition** to **S 1314**. He said the bill does not constitute real reform. He said predatory lending, including payday lending, threatens families. His organization provides practical assistance to families in poverty and sees firsthand how growing amounts of interest and fees hurt families. He said loans should have to consider usury limits, reasonable lending caps, and loan terms taking into account a lender's ability to pay.

In response to questions, **Mr. Monasterio** said the effective annual percentage rates employed by other states to address the problem are in the double digits, with 36% being the limit used by the United States armed forces. Effective protections include limiting the number of loans that can be taken per year, and lower percentage rates. He does not believe the extended payment plan will be effective because the language in the bill states "the borrower may request" indicating the borrower must first recognize he has the right to request an extended payment plan.

Dawn Juker, Catholic Charities, testified in opposition to **S 1314**. She said the proposed regulation does not provide effective regulations or constitute real reform. She expressed that a family with two working adults, both making minimum wage at full time jobs, will not make enough money to meet minimum cost of living requirements. These families provide a prime opportunity for lenders to take advantage of consumers. Top reasons families cite for taking out payday loans are to pay bills, pay rent, and cover general living expenses. Interest rates on those loans total up to 500%. The average payday loan user renews a loan up to 8 times per year.

In response to questions, **Ms. Juker** said because families face a constant shortage in necessary funds, they renew loans often. This makes the original loan amount moot because of all the fees and interest that accrue. Catholic Charities believes the bill's language leaves holes and places too much responsibility on the consumer to be aware of options that the payday loan industry will not have to advertise.

Mike Larson, Idaho Department of Finance, testified in support of **S 1314**. He said this bill comes up with ideas to improve Idaho's payday loan industry. He expressed that people have various debt traps, such as house payments, student loan payments or car payments. He said the Department has met with individuals who have found themselves in difficulty with payday loans. There is a significant demand for short-term consumer credit. Last year, Idaho saw approximately \$178 million in payday loans. Less than half were renewed. The average length of a payday loan in Idaho was 18 days. He says last year over 38,000 checks given as security to payday lenders bounced. The extended payment option offered by **S 1314** seeks to provide relief for those individuals who are not able to pay off a loan as originally agreed, and who also cannot cover the security check. Some lenders are already offering this option although it is not currently required. The Department does not claim this bill will cure every problem related to payday lending and borrowing, however it offers improvements. A 36% interest rate cap would essentially put the payday loan industry out of business. Lenders are required to disclose costs of loans both as an annual percentage rate (APR) and in cost in dollars per hundred.

In response to questions, **Mr. Larson** said these loans do not take collateral except the required security check. Debt incurred as a result of a payday loan receives no special treatment in a bankruptcy court. There was an initial meeting between **Senator Heider**, the Department of Finance, representatives from the payday lending industry, and the Idaho Community Action Network (ICAN), to consider how to address payday lending problems with a legislative change. **Mr. Larson** said was not aware of ICAN's opposition to **S 1314** until the bill was before the Idaho Senate. There are existing protections for Idaho borrowers and this would simply add to those provisions. In the Payday Loan Act, it is specifically stated there is no interest on payday loans, there is instead a fee. The state does not regulate the fee. Lenders are required by law to disclose the borrower's fee as an APR on a Truth in Lending Form, even though the fee is not actually an interest rate. For instance, if a borrower asked to borrow ten dollars with a promise to pay back eleven dollars in one week, this would be reflected as an APR of 521%, even though there is a fee of one dollar and not an actual APR. If a lender in Idaho renews a loan more than three times, that lender's license can be revoked. Each state handles payday loans differently.

In response to additional questions, **Mr. Larson** said payday loans are quick and convenient. Most payday lenders do not report to credit reporting agencies. Individuals find themselves in difficulty in a variety of lending and loan situations. In Colorado, the single payment short-term consumer loan model no longer exists. Instead, there are consumer installment loans over six-month periods. It is possible to take out payday loans from unlicensed payday lenders around the world.

In response to additional questions, **Mr. Larson** said the Department receives consumer complaints. Last year it issued nine cease and desist orders to unlicensed payday lenders. The Department engages in education efforts. The Department can revoke licenses of lenders who violate the law.

Terri Sterling, Idaho Community Action Network (ICAN), testified **in opposition** to **S 1314**. She said ICAN currently has approximately 15,000 members across the state representing Idaho's low income population. She said in the original stakeholder meeting, the Pew recommendations were presented and she understood those would be the basis for this bill. The bill is actually the best practices of the current payday lenders and not those recommendations. She says this bill is protection against ourselves, not against predatory lenders. She said local mayors are concerned about the proliferation of payday loan businesses and the damage being caused to communities and citizens. For the last two years, ICAN has worked with its members to submit complaints to the Department of Finance. It is sometimes difficult for the members to complete the four-page complaint form.

Trent Matson, MoneyTree, Inc., testified **in support** of **S 1314**. He said this bill effectively deals with issues raised by consumer groups. Most notably, the extended payment plan is helpful to borrowers but is also used as an underwriting tool. It allows lenders to decipher when a borrower is unable to successfully pay back a particular amount, and to provide a lower amount later should the borrower return. Washington State implemented the extended payment plan in 2010 and it has been successful. Limiting check representations deals with unscrupulous lenders to protect consumers and to provide a tool for enforcement. He is surprised by the opposition from consumer advocates. He said in other states, the changes being presented in this bill have been supported by consumer groups. He said payday lenders provide a necessary, vital, legal, regulated service. In states where access is limited or reduced, citizens move to illegal, online lenders. He said stripping Idahoans of their choice to use a legal, regulated product will result in more predatory lending in Idaho through online, unlicensed lenders.

In response to questions, **Mr. Matson** said he believes MoneyTree, Advance America and Check Into Cash are the three largest providers of payday loans and already adhere to the standards that would be required in this bill. If a security check is presented a second time and is not able to be cashed due to insufficient funds, MoneyTree reaches out to the consumer to try to find a way to cooperatively recover funds. MoneyTree does offer extended payment plans. Colorado does not offer payday loans, they instead offer installment loans. MoneyTree charges a \$16.50 fee per \$100 loaned. If the borrower is not able to repay the \$116.50 on time, the borrower can repay over an extended time covering 60 days. An extended payment plan does not carry additional fees. Loans can be repaid early without penalty. Fees are not prorated on payday loans.

Ruby Mendez, ICAN, testified **in opposition** to **S 1314**. She said she has gone door-to-door and spoken with individuals directly affected by payday lending. Some do not understand the process and can get in trouble with payday loans. She read testimony from a client, **Ayde Saavedra**, who suggested a state rate cap (see attached). She said ICAN provides financial classes and educates citizens on financial options.

Cristina McNeil, citizen and real estate business owner, spoke in opposition to **S 1314**. She said payday loans cause tremendous damage to borrowers' credit ratings. She said loans should consider income ratios and consumers need to be educated on how they will manage debt. She said it is negligent to believe payday loans help consumers.

Senator Heider said he, along with St. Vincent de Paul, Catholic Charities, ICAN, and the Department of Finance, feel bad for the poorest segment of our society, whose members have found themselves in need of financial assistance. The extended payment plan with zero interest and zero fees will allow people who are struggling to repay a payday loan an option to repay without penalty, over a longer period of time. He suggested giving this solution a chance and said if it needs to be amended in the future, it can be amended.

In response to questions, **Senator Heider** said most of the lenders have not been following the standards put forth in this law.

Mr. Larson returned to answer questions. He said the Department has written materials available, and information is available online in the Department's education section; as well, the Department provides financial literacy seminars and works with public groups to increase financial awareness and education. He said promoting financial literacy is in everyone's best interest.

ORIGINAL MOTION:

Rep. VanOrden made a motion to send **S 1314** to the floor with a **DO PASS** recommendation.

Rep. Woodings said she agrees with **Senator Heider** that this bill will help people find relief from the debt cycle. She would like to see language added to disclosures, to address extended payment plans.

Senator Heider said the language already exists in the bill in Item (C).

Rep. King said she remains concerned about this issue.

SUBSTITUTE MOTION:

Rep. King made a substitute motion to **HOLD S 1314** in committee.

Rep. Harris said he will support the original motion, because this bill provides more protection than already exists.

VOTE ON SUBSTITUTE MOTION:

Chairman Hartgen called for a vote on the substitute motion to **HOLD S 1314** in committee. **Motion failed by voice vote.**

Rep. Anderson(31) said he appreciates the sentiments of the people who came to testify today. He said he will support the original motion to send **S 1314** to the floor with a **DO PASS** recommendation, however there is still room for changes to be made to the process of payday loans.

VOTE ON ORIGINAL MOTION:

Chairman Hartgen called for a vote on the original motion to send **S 1314** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. King** requested to be recorded as voting **NAY**. **Rep. VanOrden** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:48 p.m.

Representative Hartgen
Chair

Mary Tipps
Secretary