

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Monday, January 23, 2012

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon, Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Batt, Smith(30), Rusche, Cronin

**ABSENT/
EXCUSED:** Reps. Palmer and Rusche

GUESTS: Steve Keys, Division of Building Safety; Max Greenlee, Risch Pisca; Anne Lorenz & Terry Carney, Idaho Fraud Awareness Coalition; Skip Smyser, Connolly & Smyser; Zach Hauge, Capitol West; Ed Lodge and Sarah Guhrman, CenturyLink

Chairman Black called the meeting to order at 1:30 p.m.

MOTION: **Rep. Bilbao** made a motion to approve the minutes of January 17. **Motion carried by voice vote.**

RS 20772: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **RS 20772**. Mr. Keys testified that this legislation recognizes and accommodates the reorganization of the Division of Building Safety. He said the size of the Division has been reduced as a result of the downturn in construction activity, and old definitions and job descriptions have become obsolete. Many specific bureaus within the agency have been eliminated and the Division has moved to a regional management structure. Thus, references to "bureau chief" in the Code need to be eliminated, and provision needs to be made for regional managers.

MOTION: **Rep. Thompson** made a motion to introduce **RS 20772**. **Motion carried by voice vote.**

RS 20778: **Mr. Keys**, Deputy Administrator of the Division of Building Safety, presented **RS 20778**, saying it will codify provisions for the election of a vice chairman by the Electrical Board. Present law stipulates that the Board will elect a temporary acting chairman when the chairman is not able to attend a meeting. This new provision simplifies the process and allows the vice chairman to be better prepared to conduct a meeting.

MOTION: **Rep. Cronin** made a motion to introduce **RS 20778**. **Motion carried by voice vote.**

RS 20820: **Mr. Keys**, Deputy Administrator of the Division of Building Safety, presented **RS 20820**. This legislation is being brought forward at the request of members of the Building Code Board and the Public Works Contractor Licensing Board. It changes the basis of their remuneration for attendance at meetings from a \$50-per-day salary to a \$50-per-day honorarium. This change addresses an issue where PERSI participation has adversely affected individual retirement programs.

MOTION: **Rep. Henderson** made a motion to introduce **RS 20820**. **Motion carried by voice vote.**

RS 20962: **Ed Lodge**, representing CenturyLink Communications, presented **RS 20962**. Mr. Lodge gave a historical overview of evolving telecommunications regulation, beginning with the 1984 Cable Communications Act. He noted that Idaho's television providers are governed by federal rules under the 1984 act. Under this act, cable providers are required to pay franchise fees of 5% of gross revenues to cities. Because broadband providers who provide a similar service are not defined

as a cable service, there is the potential that they may not be subject to the same regulations. Mr. Lodge said without a change in federal law, or the creation of a public policy standard in Idaho law, this ambiguity may adversely affect Idaho communities and citizens. He said the legislation contained in RS 20962 is the result of a collaborative effort among stakeholders, and is intended to treat broadband providers and cable providers equally. Mr. Lodge said the legislation will provide a standard of certainty for CenturyLink. It is also supported by the Idaho Cable Association, although for different reasons.

Mr. Lodge explained that previous versions of this legislation were not successful because different parties held different interpretations and could not come to an agreement. This RS is the result of negotiation that took place over the interim. He stated it will create a level playing field for all involved.

Responding to a question from the committee, **Mr. Lodge** said last year's bill included advertising and home shopping revenues, but this was not widely supported. Therefore, he decided to not include that provision in the current RS. With regard to PEG channels, Mr. Lodge said if a city wants PEG channels, his company would provide PEG content. He said federal law allows for a PEG fee but does not mandate it. Similarly, this legislation neither prohibits nor mandates such a fee. Mr. Lodge stated that a broadband provider is not subject to the fee unless it provides video service as defined in this legislation.

MOTION:

Rep. Patrick made a motion to introduce **RS 20962**. **Motion carried by voice vote.** **Rep. Smith (30)** requested that she be recorded as voting **NAY**.

Bill Deal, Director of the Department of Insurance, appeared before the committee to present information on the Idaho Fraud Awareness Coalition. Mr. Deal introduced Tricia Carney, Public Information Officer for the Department and Chairman of the Coalition committee. He explained that the Coalition is a separate and distinct entity but is sponsored by the Department of Insurance. Their goal is to increase awareness about fraud in Idaho. Mr. Deal noted that the Coalition sponsors an essay contest each year to help with that goal. They also have a new website, www.fightfraudidaho.com, with information about their work.

Lonny Tutco, Consumer Specialist with the Attorney General's Consumer Protection Division, was recognized to provide additional information about the Fraud Awareness Coalition. Mr. Tutco testified that the Coalition obtained over \$8 million in restitution for Idaho citizens last year. He said swindlers employ a variety of tactics, including fake names and rented post office boxes, to stay ahead of law enforcement. He said many citizens are unaware of the varied ways their personal information can be stolen, but expanded knowledge helps them avoid being victimized. Mr. Tutco said the Coalition's consumer education efforts are funded by lawsuits and settlements, not by taxpayer funds.

Responding to committee questions, **Mr. Tutco** said the Coalition's funding comes from settlements and fines for all types of fraud. He said he would make the annual report available to committee members who are interested in the Coalition's total funding. Asked whether Coalition speakers are available in north Idaho, Mr. Tutco said they have made presentations as far north as Coeur d'Alene and Sandpoint, and they sponsored an elder summit in Worley. Mr. Tutco stated there are 13 employees in the Consumer Protection Division of the Attorney General's Office.

Michael Mulconery, Fraud Claim Specialist for the Department of Insurance and a Special Investigator for State Farm Insurance, described the Fraud Awareness Coalition as an information gathering and distribution system, and discussed the advantages of having the public and private sectors come together to form the Coalition. He encouraged legislators to remember the Coalition and its resources when they become aware of fraudulent activities. Mr. Mulconery said Idaho citizens

lose millions of dollars annually to fraud, due in large part to being naïve, apathetic, or unaware. The goal of the coalition is to change apathy into righteous indignation and to raise awareness among all of Idaho's citizens.

Answering questions from the committee, **Mr. Mulconery** said a very common type of fraud in Idaho is insurance fraud. Internet scams are also becoming more common, with many of them originating in Nigeria. He said senior citizens are often vulnerable because of their naivete, and he noted that the Coalition does make presentations at senior citizen centers.

Les Lake, Regional Forensic Manager for Eddie Bailey and a Special Investigator for the Attorney General's Office and the Medicaid Bureau, testified that Medicaid fraud in the state of Idaho is responsible for approximately 10% of Medicaid's annual budget. Citing a report from the Association of Certified Fraud Examiners, Mr. Lake said in general the fraud losses total 9.8% of government budgets. Mr. Lake said nine out of ten businesses will be victimized at some point, and it often takes one to two years before fraudulent activity is discovered. He stated about 90% of startup businesses fail, one-third of them because of fraud, and suggested businesses should budget 5% of their revenues to cover fraud.

Mr. Lake said the average loss to fraud is \$197,000 per event. The most common frauds are billing schemes, corruption in management, check tampering or skimming. He gave a profile of a typical employee who may be defrauding his employer: a dedicated, loyal, trusted staff person in the mid-40s to mid-60s age range. In the United States \$994 billion is lost to fraud each year, and Mr. Lake stressed the importance of employers developing a plan to deal with fraud.

Asked to give some warning signs that employers might notice as indicators of fraud, **Mr. Lake** said the single biggest indicator of possible fraud is a person living a lavish lifestyle who otherwise would not be expected to do so, based on his or her income. Other red flags to watch for are persons with drug or alcohol problem or those with a large debt load, or an employee who is taking longer than normal to produce documents or information when requested to do so. Mr. Lake said in general one out of three persons will steal, another third will do so if under some financial pressure, and the final third will not do so under any circumstances.

Mr. Lake was asked how he arrived at the 10% figure for Medicaid fraud. He responded that he helped set up the Medicaid Fraud Bureau in 1978, and the 10% figure has remained fairly constant since that time. It also represents a national figure. Medicaid fraud consists of billing provider fraud as well as fraud committed by people receiving Medicaid payments.

Bill Deal concluded the Coalition's presentation, stating that speakers are available by calling Tricia Carney at the Insurance Department for scheduling. He testified that the Idaho Fraud Awareness Coalition is also funded by annual membership fees, which are about \$25 per member. Mr. Deal pointed out that the Attorney General's Office has a Consumer Fraud Unit and the Finance Department has a fraud unit that deals with bank and financial institution fraud. He said the Department of Insurance, which has five fraud investigators, recovers an average of \$3 million to \$4 million per year on insurance fraud issues. If an individual has been defrauded, the funds are used for restitution to the individual. Otherwise, the restitution funds go into the General Fund.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:45 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary