

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 26, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**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.

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

GUBERNATORIAL APPOINTMENT TO BE VOTED ON: Appointment of **John Michael Brassey** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017.

MOTION: **Senator Smyser** moved, seconded by **Vice Chairman Malloy**, to send the gubernatorial appointment of John Michael Brassey to the Idaho Personnel Commission to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

GUBERNATORIAL APPOINTMENT TO BE VOTED ON: Appointment of **Peter J. Black** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017.

MOTION: **Senator Tippetts** moved, seconded by **Senator Johnson**, to send the gubernatorial appointment of Peter J. Black to the Idaho Personnel Commission to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

RS20925 **Relating to Insurance Deductibles. Lyn Darrington, representing State Farm Insurance**, stated the bill before you will increase maximum auto insurance deductible for renewal policies. This section of code has not been amended since 1991. The auto insurers recommend to increase the comprehensive from \$150 to \$250 and collision and physical damage from \$300 to \$500. **Vice Chairman Malloy** asked how are these adjustments to these fees in line with other states deductible caps? **Mr. Darrington** stated she did not have that information with her but would be prepared to answer the question at the hearing on the legislation.

MOTION: **Senator Tippetts** moved, seconded by **Senator Johnson**, to print **RS20925**. The motion carried by **Voice Vote**.

S1225 **Relating to Idaho Real Estates License Exam Fee. Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission,** stated the first item for your consideration today is **S1225**. Applicants are required to pass a two-part licensing exam to obtain an Idaho Real Estate License. The Commission contracts with Pearson VUE, a professional exam provider, to administer these exams. The exam fee is capped at \$100 in Idaho Code, and this bill would increase the cap to \$150. Our present exam fee is \$85, and our existing contract with Pearson VUE expires in November of this year. The Commission would like to ensure that they are able to solicit enough competitive bids to provide a quality licensee exam. **Chairman Andreason** asked is this increase to cover increased expenses for the exam? **Ms. Jackson-Heim** replied that the Commission does not collect this fee, it is collected by the exam provider and it covers their costs of administering the exam. Exam providers administer testing throughout the United States for the convenience of the applicants who wish to take the test. The Commission must bid every three years for how much that contract fee will be. The statutory cap has been in place for a number of years and the Commission is concerned that when they go out to bid, if the fee is not increased, they may not be able to get a company that is a qualified bidder to be able to perform this service for them.

MOTION: **Senator Tippets** moved, seconded by **Vice Chairman Malloy**, to send **S1225** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

S1226 **Relating to Idaho Real Estate License Exam Fee Cap. Ms. Jackson-Heim,** said that active status real estate licensees are required to maintain errors and omissions insurance. The Commission contracts with an insurance carrier to provide a group policy for our licensees. There is presently a premium cap of \$200 per year, and **S1226** would amend the license law to increase the cap to \$250. We are in the last year of a three-year contract with our insurance provider, and the premium is presently \$186 per year.

MOTION: **Senator Goedde** moved, seconded by **Senator Schmidt**, to send **S1226** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

S1227 **Relating to Idaho Real Estate Related Continuing Education. MiChell Bird, Education Director, Idaho Real Estate Commission,** advised this bill pertains to continuing education requirements of their licensees. Idaho's Code permits some courses to be taken in other jurisdictions or other professions and these courses can be used to meet Idaho's continuing education requirements for real estate licensees. This legislation would add language to clarify those non-certified courses must be somewhat equivalent to the Idaho certified courses by meeting same minimum requirements as the courses certified by the Commission.

MOTION: **Senator Smyser** moved, seconded by **Senator Stennett**, to send **S1227** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

S1228 **Relating to Real Estate Term Language Update. Ms. Jackson-Heim,** stated **S1228** is a clean-up bill to delete a couple of obsolete references left over from previous law changes. They request that the word "revoke" be taken out of 2012. Section D. because they added a section 4 "revoke licensee" which has its own section. They are also deleting the term sub-agents from their agency law because the term is obsolete.

MOTION: **Senator Johnson** moved, seconded by **Senator Cameron**, to send **S1228** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

PRESENTATION: Fraud Awareness Coalition Presentation. Bill Deal, Director, Department of Insurance, said that the Idaho Fraud Awareness Coalition is present today to give a brief presentation on the status of Fraud in Idaho. The coalition is a distinct entity and is sponsored by the Department of Insurance and is funded by membership fees. The Coalition sends a consistent message that is sent to consumers which is effective and efficient in the method to increase the awareness of fraud in Idaho. The Coalition was allowed a segment on Local News 8 in Pocatello warning their citizens "if someone contacts a senior or any other individual and is an unsolicited contact this should send up a red flag it could be fraud." The Coalition continues to provide outreach to service clubs, senior centers and other organizations (Attachment 1 pamphlet).

Lonny Tutko, Deputy Attorney General, Consumer Protection Division, stated that their office enforces the Idaho Consumer Protection Act and related statues that protect consumers and businesses from unfair or deceptive acts and practices. Last year their enforcement efforts obtained over \$8 million in restitution for the state and its taxpayers. Consumer protection laws help keep unfair competition out of the market place. The market place works best when people can base their decisions on truthful information. Idaho citizens reported over \$6 million in losses due to fraud in 2011. The fraudsters use fake E-mail accounts, fake phone numbers, rented mailboxes, and other forwarding systems that keep them just out of the reach of law enforcement. Over the past few years Consumer Specialists from the Attorney General's Office have visited communities throughout the state speaking at meetings with community leaders and sharing their education CD's to combat the fraud schemes. This basic knowledge has allowed many citizens to be forewarned before becoming a victim. These prevention methods have helped citizens to combat these fraud practices because it is hard to recover money once it is scammed. Raising awareness, educating individuals about the dangers of fraud and how to report it and avoid being victimized is the best way for their Division to protect Idaho Citizens.

Michael Mulconery, Special Investigation Unit for State Farm Insurance, advised that he would like to draw the Committees attention to those things that underlie organizations such as the Idaho Fraud Awareness Coalition. When you learn of a fraudulent activity that injures a constituents the Coalition is a resource that you can present as an avenue for help to your constituents. The Coalition is a resource for awareness, education and action in helping individuals understand the problem of fraud and perceive it as a malicious common enemy. Such awareness will give them a sense of being an ally in the fight against it. They hope that watching out for one's neighbor as well as oneself will be rejuvenated in our communities. The Coalition is dedicated to helping individuals become part of the community that is aware, watchful and engaged in the fight against fraud for the benefit of all.

Les Lake, Regional Forensic Accounting Manager, Eide Bailey, stated the truth is good enough. In this budget year the estimated loss to fraud is 9.8% or \$592 million. What can be done to stop this drain on the budget? Three out of four business owners will be victimized by fraud. Common types of fraud are: 1) Billing schemes; 2) Corruption in management; and 3) Check tampering and skimming fraud. Who commits these types of crimes? They are your most dedicated, most loyal, most trusted staff people, who have been with you five years or more, in their 40's to mid-60's. If we employers would ask the tough questions and hold individuals accountable for the decisions they make, there would be the opportunity to reduce fraud.

**Department of Insurance
Rules Review**

DOCKET NO.

18-0105-1101

Health Carrier External Review. Tom Donovan, Deputy Director, Department of Insurance, said this rule before you stems from two house bills that were enacted last year **H131** and **H299**. These bills amended Idaho's External Review Act process. **H131** was a Department of Insurance bill that made changes to the External Review Act to conform to the NEIC model. It did three main things: 1) Expanded the list of types of denials that were eligible to go outside for external review; 2) The scope of urgent care requests was expanded; and 3) A health carrier could not require the covered person to follow the internal grievance process if the health care did not provide adequate notice to the consumer. **H299** provided that a single funded self-employer plan could elect to follow this external review process.

Page 127 in the Pending Rule Book under Sections 20 and 22 amended the language concerning individuals only using the forms that were set forth in the appendix; but rather that some variation would be allowed. Page 128, Section 24 was revised that independent review organizations did not have to submit annual reports, because they were unnecessary. Section 24 has new language to provide a mechanism for how the self-funded plans would notify the Department that it was choosing to follow the State of Idaho External Review Process. Page 130, 133 and 138 make changes to conform with legislative changes of last year.

The Department of Insurance received 13 requests for external review in 2010. In 2011 they received 30 requests and a third of them were overturned by the review organization. In 2012 the Department has already received seven external review requests. There were many questions from the Senators on how the review process is implemented.

MOTION:

Senator Cameron moved, seconded by **Senator Smyser**, to adopt Docket No. 18-0105-1101. The motion carried by **Voice Vote**.

18-0146-1101

Recognition of New Mortality Tables for Use in Determining the Minimum Standard of Valuation for Annuities and Pure Endowment Contracts. Mr. Donovan, stated the Department became aware that it was one of seven states across the country that did not have a recent updated National Association of Insurance Commissioners (NAIC) model addressing the mortality tables for a standard valuation for annuity and Group Annuity Mortality (GAMA) contracts. Idaho's current rule was based on a 1984 (NAIC) model rule. The update to this rule on page 141 will update the rule to the 1996 (NAIC) version which most states use. The majority of the rule deals with incorporating actuarial tables by reference. The insurance industry uses these tables for providing minimum valuations for consumers. The changes are to update Idaho's standards to make them consistent with industry standards and recognizing mortality tables because longevity has increased the benefits for Idaho consumers.

MOTION:

Senator Goedde moved, seconded by **Vice Chairman Malloy**, to adopt Docket No. 18-0146-1101. The motion carried by **Voice Vote**.

18-0150-1101

Adoption of the International Fire Code. Mark Larson, State Fire Marshall, said this rule change deals with some modifications to the Fire Code in the last legislative session. **Mr. Larson** stated that he had included supplemental information for this docket (Attachment 2) which will help clarify the rule and the language in the Fire Code. On page 149 they delete the language "and the Fire Code Official shall not be removed from office except for cause and for full opportunity to be heard on specific and relevant charges by the appointing authority" (Section 103.2, 2009 International Fire Code/Attachment 2). This language has been in all of the family of building codes, published by the International Code Counsel. Overtime, the section that is being removed had been removed from all of the other building codes but not the Fire Code. The language will now read "the Fire Code Official shall be appointed by the chief

appointing authority of the jurisdiction." In Idaho the Fire Code Official is typically a Fire Chief of a municipal government and is responsible to the mayor and city council or if it is a fire district he is responsible to the commissioners. On page 150 the stricken language in the rule (Section 906, Portable Fire Extinguishers 1., Exception/Attachment 2) was in previous adoptions of the Fire Code. **Mr. Larson** had deleted the exemption highlighted which indicated a new and existing group A. assembly type license, B. business groups and E. schools occupancies. Exception: In new and existing Group A, B and E occupancies be equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Item 2 through 6. The removal of the exemption which stated that you needed to keep fire extinguishers in place in most buildings that have certain types of sprinkler heads. During the adoption process, last year, one of the House Representatives asked that the exemption be placed back into the rule that would allow schools that are equipped with that type of sprinkler not be required to have portable fire extinguishers in corridors. Being exempted from having these extinguishers they do not have to purchase, maintain or annually test them. This results in savings for the schools. On page 150, the final change (Section 903.2.7 Group M, Item 4./Attachment 2) requires sprinklers in a Group M mercantile store that is used for the display and sale of upholstered furniture.

MOTION: **Senator Schmidt** moved, seconded by **Vice Chairman Malloy**, to adopt Docket No. 18-0150-1101. The motion carried by **Voice Vote**.

**Division of Human Resources and Personnel Commission
Rules Review**

DOCKET NO.
15-0401-1101

Rules of the Division of Human Resources and Idaho Personnel Commission. Michael Savoie, HR Program Manager, Division of Human Resources and Personnel Commission, stated the rule changes in this docket are to update the language to be in compliance with changes made to Idaho Code during the last legislative session. Page 101, Section 102., 03. Disabled Veterans' Preference has been amended to extend preference of employment for disabled veterans so that any disabled veteran who is provided on the hiring list is to be provided an opportunity to interview for that state position. Prior to this change the only benefit for disabled veterans was for only those who appeared in the top ten on the hiring list. The State of Idaho recently changed the number of applicants who can appear on the hiring list from ten to twenty-five names. The final change on this docket is for probationary periods for classified employees. Last year *Idaho Code*, Title 57, Chapter 53 was amended to clarify that time served in a temporary assignment could only go toward completion of an entrance probationary period. The time served in acting appointment could only go toward the completion of the promotion probationary period. This docket amends the rules of the Division to reflect this change in Idaho Code. It removed all references to acting appointments service credit going toward the fulfillment of entrance probation in one rule and creates a new rule clarifying the acting service credit that only goes to the completion of the promotional probationary period.

MOTION: **Vice Chairman Malloy** moved, seconded by **Senator Stennett**, to adopt Docket No. 15-0401-1101. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 3:07 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary