

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 09, 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.

MINUTES: **Senator Tippetts** moved, seconded by **Senator Stennett**, to approve the minutes of January 31, 2012. The motion carried by **Voice Vote**.

Senator Smyser moved, seconded by **Vice Chairman Malloy**, to approve the minutes of February 2, 2012. The motion carried by **Voice Vote**.

**GUBERNATORIAL APPOINTMENT:
TO BE VOTED ON** Appointment of **Mark Holubar** to the Idaho Personnel Commission to serve a term commencing November 17, 2011 and expiring July 1, 2017.

MOTION: **Senator Smyser** moved, seconded by **Senator Schmidt**, to send the gubernatorial appointment of Mark Holubar to the Idaho Personnel Commission to the floor with a recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

RS20752 **Relating to the Directory of New Hires, Bob Fick, Department of Labor, Communication Manager**, stated this bill provides a penalty for failure to comply with the new hire reporting which is part of Welfare Reform. This legislation requires employers to report to the Department of Labor each new hire within 20 days of the hiring date. The law, over the last fourteen years, has been complied with by 30% of the largest employers in the state. They are reporting about 70% of the new hires. The other 70% of the smaller employers are not complying with the law. The lack of compliance makes life difficult for the Department of Health and Welfare to track down individuals who owe back child support. Failure to file new hire reports with the Department of Labor extends the period of time in which they are able to identify individuals who have gone back to work and continue to collect unemployment benefits. If the Department of Labor can garner this new hire information in a timely manner, the Department can recover almost all of the monies that are paid to individuals who have returned to work and should be off the unemployment insurance. Usually the Department finds out about the new hires through the employer's quarterly reporting and that can be four or five months down the road. By that time it becomes more difficult to recover the over payment of unemployment benefits. All of the recovered monies go into the unemployment trust fund account and maintains the trust fund balance, and the higher the trust fund balance the lower the employer's taxes.

Senator Cameron asked how did the Department arrive at the \$25 civil monetary penalty? **Mr. Fick** replied this is the penalty the Department used

when they proposed a penalty for failure to comply with the requirements of the Professional Employer Organization report that follows all of the civil penalties in the law. **Senator Cameron** asked if **Mr. Fick** could give an estimation as to what the Department would spend in collecting the penalty? Also, how will the Department know that the employer has not filed on the appropriate time-frame. **Mr. Fick** stated that the Department identifies new employees now that have not been identified in the new hire report on the quarterly reports. If they do not receive a new hire notification within that quarter, they know that the employer has not complied with the new hire reporting. The Department eventually identifies this legislation will help to collect the information in a more timely manner. **Senator Cameron** stated are you charging the penalty from the date that the new hire shows up on the quarterly report. **Mr. Fick** answered the \$25 is a one time penalty. If the employer fails to report the new hire within the proper time in that quarter, they will be charged \$25 per employee that they have not reported or up to \$5,000 per quarter. **Senator Cameron** said that he is reticent to impose another fine or something that could be perceived as a barrier for employers to hire employees. **Mr. Fick** stated that the number of new hires that are not reported is approximately the same each year. The Department intends to have an intense education campaign this spring to make sure that employers understand their reporting responsibilities. The Department believes that the employers who are not filing the new hire reports are the small employers who hire infrequently. It is a simple process to report the new hire by faxing into the Department of Labor the new hires W-4, which satisfies the reporting requirements of the new hire.

MOTION: **Senator Tippetts** moved, seconded by **Senator Smyser**, to print **RS20752**. The motion carried by **Voice Vote**.

RS21113 **Relating to Secured Transactions, Mike Brassey, representing Uniform Law Commission**, advised the purpose of the legislation is to update to the current amendments in Article 9 of the Uniform Commercial Code (Attachment 1 Commercial Transactions). Idaho adopted all of the Commercial Code as it became available. Article 9, Chapter 9, *Idaho Code*, was adopted in 1967. In 1998 the law went through significant revisions. The Commission reviews its uniform laws periodically and asks the states to adopt the updates to the uniformed statute. Idaho has adopted the uniform amendments for 1998. This bill before you deals with the law of secure transactions. This law deals with situations where an individual buys personal property and gives a security interest in the property as collateral for the payment of the loan. For example: The security interest given in a car, if you buy on credit, is determined by these statutes. This law has been adopted in all of the states.

MOTION: **Senator Cameron** moved, seconded by **Senator Goedde**, to print **RS21113**. The motion carried by **Voice Vote**.

RS21171 **Concurrent Resolution Rejecting a Pending Rule Docket of the Division of Building Safety.** **Senator Tippetts** stated this resolution is the legislation to finalize the action the Committee took in rejecting the adoption of 2011 National Electric Code.

MOTION: **Senator Tippetts** moved, seconded by **Senator Cameron**, to print **RS21171**. The motion carried by **Voice Vote**.

RS21174 **Concurrent Resolution Rejecting a Certain Rule of the Department of Administration.** **Senator Cameron** stated this Committee voted to rejection language in this rule.

MOTION: **Senator Cameron** moved, seconded by **Senator Smyser**, to print **RS21147**. The motion carried by **Voice Vote**.

RS21236

Relating to PERSI Sick Leave for Teachers. Senator Smyser stated in regards to the cuts we have had and the changes in education in the last three years this particular bill provides a safety net for educators who have been subject to a Reduction in Force. Under current code, an individual who terminates employment with their school district must secure employment in another district or with another state education agency in the ensuing school year or lose any accumulated sick leave. **RS21236** would allow an education employee who has lost their job due to a Reduction in Force up to three years to find new employment without risk of losing accumulated sick leave. **Vice Chairman Malloy** asked for clarification on the no fiscal impact segment of the bill. If the sick leave would normally be unavailable after the first year and this legislation would extend that leave out another two more years this liability would affect the fiscal impact on a school district. **Senator Goedde** stated he had the same question as **Vice Chairman Malloy** directed his question to Director Don Drum, PERSI, and his answer was this bill would have no fiscal impact. **Senator Schmidt** stated that his understanding is the district funds a sick leave account so the district would be required to fund that account. **Senator Smyser** stated that was not correct that PERSI holds the accumulated sick leave.

MOTION:

Senator Goedde moved, seconded by **Senator Stennett**, to print **RS21236**. The motion carried by **Voice Vote**.

S1268

Relating to Insurance Deductibles. Lyn Darrington, representing State Farm Insurance advised that this bill is a proposal seeking an adjustment to the auto insurance deductible upon renewal of a policy for comprehensive and collision. The Department of Insurance communicated that it would not oppose the adjustments as outlined in **S1268**. In 1969 this law was first passed which prohibited an insurer from requiring a deductible of more than \$100 as a condition for renewal. Also at that time there was no distinction between comprehensive and collision. Idaho has unique laws that prevent an insurer from non-renewing a customer, even if the customer routinely presents multiple comprehensive or collision damage claims in a calendar year. There are some exceptions in Section 41-2507, *Idaho Code*, 1) a DUI (driving under the influence) conviction; 2) Racing a vehicle; 3) Suspended license; and 4) Demonstrated health imparity. Routinely making claims is not one of the exceptions for non-renewal. Given Idaho's limits to the insurers unilateral ability to cancel a risk even at the end of a contract policy. This section will provide insurers with the ability to require that the customer carry a reasonable insurance deductible for comprehensive and collision coverage. This deductible is applicable to the first dollars policy loss. The insurer is able to condition renewal on the customer accepting the higher deductible. This law will impose a limit on just how high that deductible at renewal can be. In 1991 the legislature changed the statute allowing insurers to condition renewal on the insured by accepting a deductible of up to \$150 comprehensive or \$300 on collision. This was the first time that the two kinds of coverage were separately addressed in Idaho Code. This bill will adjust the limitations to the 2012 pricing, increasing the comprehensive deductible from \$150 to \$250 and increasing the collision and physical damage coverage from \$300 to \$500.

Ms. Darrington stated that the US Bureau of Labor and Statistics, Consumer Price Index Chart,(CPI) uses a base of 100 which are average prices from 1992 to 1984. At the end of 1991 the CPI was \$136.2; in November 2011 the CPI was at \$226.2. What cost \$1.32 in 1991 costs \$2.26 today. The changes in this bill will allow the deductible limitations to keep up with the average increase in consumer prices.

The ability to accurately price the cost of insurance to the represented results in

a fair cost of insurance to anyone being insured. When an insurer cannot end its relationship at the end of a policy period with a customer who has demonstrated claims history of higher rate risk of loss, other policyholders of that insurer are required to subsidize that insurer's costs. The cost of that insurer being required to offer to renew that high risk customer's policy, therefore, having to spread that higher cost through the pool of all of the insured. Raising the deductible limit as proposed in **S1268** to a reasonable level will mean that the high risk customer bears a greater share of the cost to the loss out of their pocket. This will mean a lower indemnity payment, by the insurer, and a lower frequency of reported losses. As losses for damage less than the deductible amount will not be submitted as a claim.

Senator Tippets asked is Idaho the only state, that **Ms. Darrington** is aware of, that puts a cap on the maximum deductible that an insurer can charge an insured at renewal? **Ms. Darrington** replied that is correct. **Senator Tippets** asked under current law the insurer is not allowed to cancel the policy of someone who has a high rate of insurance claims, their only option would be to move them to a higher deductible? **Ms. Darrington** stated that there is a threshold. The insured would have to have several claims that were severe to not be considered for renewal.

Senator Tippets asked how does the ability to increase rates factor into the issue? In the present legislation there is a cap on the deductible rate, is there also a cap on how much an insurer can charge for a policy? **Mr. Deal, Department of Insurance**, stated that there is not a cap on rates. There are different tiers that administer the rates. Once an individual has an accident the rate would go up because they are losing that discount. The \$250 and \$300 is a common deductible chosen by most individuals today.

Senator Cameron said how does it benefit the consumer to retain these caps in statute? **Mr. Deal** stated the caps are in statute to protect the consumer from cancellation of their policy. The consumer deductible levels are a form of protection if they have a collision. Before this legislation was in place it was very common for an insurance company to raise the deductible to \$1,000 and many individuals could not afford this amount.

MOTION:

Senator Goedde moved, seconded by **Senator Cameron**, to send **S1268** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:18 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary