

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 01, 2012
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Smyser, Tippetts, Johnson, Stennett, and Schmidt
ABSENT/ EXCUSED: Senator Goedde
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 1:31 p.m.

GUBERNATORIAL APPOINTMENT Appointment of **J. Kirk Sullivan** to the Public Employee Retirement System of Idaho Board to serve a term commencing July 1, 2011 and expiring July 1, 2016.

MOTION: **Senator Cameron** moved to send the gubernatorial appointment of J. Kirk Sullivan to the Public Employee Retirement System of Idaho Board to the floor with the recommendation that it be confirmed by the Senate. **Senator Schmidt** seconded the motion. The motion passed by **Voice Vote**. **Senator Andreason** will be the sponsor of the candidate.

H546 Relating to the Global Entrepreneurial Mission (IGEM) Grant Fund. **Jeff Sayer, Director, Department of Commerce**, stated the Idaho Global Entrepreneurial Network is an initiative proposed by Governor Otter in his State of the State speech. It advances the quality of our research and accelerates and facilitates the technology transfer out of the five research institutions in the state into the market place. The idea is to bring technology that has taken years and significant amounts of investment into the marketplace where it can create new companies and jobs. IGEM has been carefully designed and patterned after a number of different states that have had successful programs; such as Utah's U-star program. In looking at other state's programs we selected the best practices out of those programs and included them in IGEM.

IGEM will come funded in three different layers: 1) \$2.0M for new research at the universities; 2) \$2.0M create permanent, ongoing funding for the Center for Advanced Energy Studies (CAES); and 3) \$1.0M funding and grant monies for the Department of Commerce.

Section 1 (Page 1, Line 16): Amends Section 67-4725, *Idaho Code*, to transform the existing Idaho Innovation Fund into the Idaho Global Entrepreneurial Mission Grant Fund.

Section 2 (Page 1, Line 30): Amends Section 67-4726, *Idaho Code*, to transform the existing Idaho Innovation Council into the IGEM Council. The new wording that is added is carefully designed to make sure there is a balance of all parties, private sector and government representatives.

Section 3 (Page 2, Line 36): Outlines all of the responsibilities for the IGEM Council. The Council must establish the parameters, metrics, process and report back to the legislative body and the Governor to their progress.

- Establish rules for the grant program with special consideration to make sure these companies stay Idaho focused.
- Responsible for attracting private investment to the IGEM Program.

Section 4 (Page 3, Line 42): Allows the Department of Commerce and the State Board of Education the ability to allocate funds to Boise State University, University of Idaho and Idaho State University for research teams or individual university faculty to pursue IGEM focused projects.

Section 5 (Page 4, Line 3): New section which specifies how any commercialization revenues from research undertaken by the universities and funded by IGEM will be distributed. Allows the fund to participate in up to 5% of the commercialization revenues.

Senator Smyser stated on page 3, (i) of the bill it speaks to some of the incentives that will be provided to encourage the investments. **Mr. Sayer** explained the biggest incentive that they will be looking at is finding ways that create efficiency and expedited processes. Some of the feedback from industry is they have been reticent to get involved in some of the tech transfer processes because of the legal environment quagmire. The Department of Commerce will work with the universities to create a framework that is attractive to businesses. The Department needs to make it worthwhile for businesses to come in and deploy capital and their time. The Department will then monitor the progress of these procedures.

Senator Tippetts asked **Mr. Sayer** for an example of how they envision the procedure to work? **Mr. Sayer** clarified the plan is to create a pipeline of communication from universities to industry and back. Technology can be developed in a university setting and the IGEM Board will identify the technology for a commercial opportunity. Oftentimes, when the technology transfers out of the university setting into a setting that is immature for the technology to be in the market or into a setting that does not have the skill and expertise to take the technology into a business environment the process fails. IGEM will watch for technologies as they are developed and when they reach the commercialization stage engage industry early in the process so they can help with the commercial development. As the transfer of the technology is taken into the private sector it has the appropriate management capabilities to shepherd the technology and the capital resources to support the transfer. There will be sharing in the revenues and that sharing will occur through a license agreement, royalty agreement, or a piece of equity in the new entity. The state will co-invest and it will replenish the fund for future investments.

Matt Freeman, Deputy Director, CFO of State Board of Education, spoke in support of **H546**, stating that states who choose to create partnerships between the research institutions and private industry have been equal to significantly improve their ability to attract capital expertise to industry. We have seen this in Idaho with every modern agricultural practice that has been developed through a partnership with the university extension service and private industry. They believe that IGEM strikes the right balance between support, public research and private partnerships. It is a necessary step to being competitive in the future.

Jay Larsen, President & Founder of the Idaho Technology Counsel, spoke in support of **H546**, explaining they are a private sector organization that is focused on building innovation and technology in the State of Idaho. The innovative ecosystem which is basically industry focused on agriculture, computer science, software development, energy, material science and advanced manufacturing.

They focus on access to capital, quality workforce, and governments role. IGEM's is exactly what the state needs to do in the process of looking for more opportunities to acquire research and development through private and public partnerships to create a competitive environment for Idaho. The states that do not figure the process out will continue to have a bigger chasm between a prosperous economy and in holding on to old technology. IGEM's will allow the state to build the next generation of jobs, as opposed to being an exporter into the state. The interconnect to the universities will bring a stronger economic opportunity as they are partnered into the next generation of products and services, thus creating a stable tax base.

The recent example of a partnership was between Simplot and the University of Idaho at the Parma Facility. The facility was about to close down because of lack of funding. Simplot stepped up to keep the facility open because of the agricultural research that the facility was producing that is paramount to the future products and services for their company.

Jason Ronk, Vice President of Idaho Association of Commerce & Industry, spoke in support of **H546**. The Association believes this legislation is a positive long-term vision for Idaho's future.

Bruce Newcomb, representing Boise State, spoke in support of **H546**.

Kent Kunz, Director of Government Relations for Idaho State University, spoke in support of **H546**, explaining a program that Idaho State University is the leader in development of accelerator technology used to produce isotopes.

Mike Reynoldson, Government Affairs Manager, Micron Technology, spoke in support of **H546**. Micron has a manufacturing sight in Utah and interacted with their universities and policy makers who were involved with the U-star Program. The benefit that they saw from their involvement with the program was that once the U-star Program was in place there was a strong shift in mentality. The concepts of commercialization, economic growth, along with generating revenue were priorities with the launch of their Program. Micron believes that this same shift can take place in Idaho. This legislation will create a road map for Idaho making this shift a priority in uniting universities to public and private sector in the development of business opportunities. **Senator Smyser** asked why do you think this concept will work in our state? **Mr. Reynoldson** replied with the creation of the IGEM Counsel, particularly the inclusion of the private sector, there will be a number of discussions of the direction the state should head in technology development and out of those discussions they believe a positive solution will develop.

John Eaton, representing Idaho Association of Realtors, spoke in support of **H546**.

Tab Roper, Vice President of TW Telecom, spoke in support of **H546**, stating that Idaho needs to create a top caliber research environment that will educate the workforce to draw the technology jobs to the state.

Rich Stuppy, Vice President of IT Operations for Keynetics, spoke in support of **H546**. Keynetics believes that it will help the university system build the skilled workforce that Idaho needs to continue to grow. The lack of software developers is a critical issue in the state. The time is right to approve this bill and help the state move forward to build a skilled workforce for the future.

Senator Johnson asked for clarification on idle funds and how they are invested. The state is somewhat limited in how they may invest idle funds because the rate

of return is poor. When the state receives grants or donations into the fund how does the Department foresee the effectual management. **Mr. Sayer** replied the idle funds will be overseen by the State's Treasurer and managed in accordance with state policy. The objective of the fund will be to deploy that capital and get it into investment opportunities that would have a chance of a higher return.

MOTION: **Senator Smyser** moved, seconded by **Senator Stennett**, to send **H546** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Cameron** will be the sponsor of the bill.

H465 Relating to Public Works Contractors' Licenses. **Steve Keys, Deputy Director, Division of Building Safety**, advised the Public Works Contractors Licensing Board brings this legislation in response to input from licensees and affected governmental entities. Many stakeholders contend that there is a significant concentration of work opportunities in the \$300,000 range, and that emerging contracting businesses are having a difficult time meeting the minimum financial and experience requirements for a "B" class license that currently is the minimum required for this level of projects. The proposal before you today expands the current Public Works Contractor classifications, by establishing a new "CC" class of license between the existing "C" and "B" classes. Currently a "C" contractor is allowed to bid on contracts up to \$200,000, while a "B" contractor is allowed to bid on contracts up to \$600,000. This legislation allows the "CC" class to bid projects up to \$400,000, and establishes minimum financial requirements of \$25,000 in working capital and \$75,000 in net worth. The applicant will be required to demonstrate he has successfully undertaken projects of at least \$280,000 to fulfill the experience requirements. The requirements for a "B" classification are \$50,000 in working capital and \$150,000 in net worth, and the applicant must demonstrate experience on projects of at least \$420,000 in value. The bill sets a maximum license fee of \$150 for the "CC" license, and moves the maximum fee for a "B" license from \$150 to \$200. Actual license fees will be set in administrative rule by the board. It is the board's belief that this move will engender additional bidder participation on projects between \$200,000 and \$400,000, while adequately protecting the public's interest by expanding the pool of qualified contractors available to perform the work.

MOTION: **Senator Schmidt** moved, seconded by **Senator Johnson**, to send **H465** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Schmidt** will be the sponsor of the bill.

H492 Relating to the Uniform Securities Act of 2004. **Gavin Gee, Director, Department of Finance**, explained this legislation does three things: 1) It makes numerous technical corrections, including citation changes and punctuation changes, and eliminating unnecessary language; 2) It provides in Sections 30-14-501 and 30-14-502 that it is unlawful for any person to engage in the securities or investment advisory business to misappropriate a client's investment funds, or to use those funds to pay other investors, unless the client has agreed to that ahead of time; a. The Uniform Securities Act is written in such a way that it makes it fairly complicated to charge someone with the outright theft of client funds. In fact, when these cases are prosecuted criminally, they are usually charged as grand theft. With this language the law would more clearly prohibit the misuse of client funds for the benefit of the adviser or broker; b. Similarly, if a person uses another client's money to perpetrate what is essentially a Ponzi scheme, that is specifically prohibited. A Ponzi scheme is an investment operation where investors' return is actually just getting their own money back or other investors' money, rather than getting a return from the investment of their money. The Department has seen a significant number of Ponzi schemes in the last several years; and 3) The final change in this legislation is found in Section 30-14-603. This amendment adds a specific statute of limitation on the Department's ability

to bring an enforcement action against a person who has violated the USA. The bill proposes three years from the date of discovery by the Department of the violation. This statute of limitation is important because many victims are lulled into being unconcerned about a fraudulent investment for a long time. This can happen because they are receiving fraudulent statements that state how well their investment is performing or they have been able to get small amounts of money back when they've asked, which is done precisely to keep the larger fraud going. This statute of limitation allows the investor to discover the fraud and report it to the Department before the statute begins to run. Moreover, it is important to have a specific statute of limitations due to a conflict among several district courts around the State on that issue.

Senator Cameron stated pursuant to rules of the Senate 39 (H), of the Idaho State Legislature, he has a conflict but still wishes to vote on **H492**.

MOTION:

Senator Cameron moved, seconded by **Senator Tippetts**, to send **H492** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will be the sponsor of the bill.

There being no further business the Committee was adjourned at 2:30 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary