

MINUTES  
**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Thursday, February 19, 2015

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Martin, Lakey, Heider, Schmidt and Ward-Engelking

**ABSENT/ EXCUSED:** Senator Lee

**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.

**CONVENED:** **Chairman Tippetts** called the meeting to order at 1:30 p.m. He welcomed all. He went over a chart entitled, "Motions in Committee" and said the chart was discussed at the chairmen's meeting. He highlighted some of the motions requiring a two-thirds vote and commented that this chart is a guideline, but not a rule of the Senate. He said if anyone wanted to discuss the chart, to please see him.

**HONORING OF PAGE:** **Chairman Tippetts** honored Page Karessa Love. She shared what she has learned while being a Senate Page and said she was excited about politics. She said she was going to Utah State to major in equine science. She hopes after college graduation to be accepted into Clinton Anderson's professional horse training clinician program. **Ms. Love** thanked the Committee for the opportunity of becoming a Senate Page. **Chairman Tippetts** introduced the new page, Samantha Mooney.

**S 1023:** **Insurance - Adds to Existing Law to Provide Definitions, Provide for Insurer Conduct and Unfair Trade Practice.** **John Mackey**, representing United Heritage Life Insurance Company, said this legislation establishes requirements for life insurance companies related to certain unclaimed life insurance benefits. The bill requires the insurer to conduct a comparison between the policies, annuities, retained asset account, and federal Social Security Administration's (SSA) Death Master File or similar document. It provides guidelines for conducting the comparison. The computer database file has been available since 1980 and contains information for over 89 million deaths. The SSA estimates 95 percent of all current deaths are being reported to the file.

Upon establishing the knowledge of death of a policy holder, who has a benefit due under the policy, the insurer is required to take steps to pay the benefit of a policy, annuity, or retained assets account to the designated beneficiaries. If a match is found and a claim for benefits has not yet been submitted then the insurer is required to initiate, complete and document a good faith effort to determine if benefits are due, locate a rightful beneficiary and begin the claim process within 90 days of the match date. If beneficiaries cannot be found, insurers remit the unclaimed proceeds to the State as required in current law.

Failure of an insurer to meet requirements of the legislation with such frequency as to constitute a general business practice, will be in violation of Idaho Code, Chapter 13, Title 41 (Trade and Practice Frauds). The legislation excludes policies and contracts that typically include a third party of interest. **Mr. Mackey** said the bill also includes a one-year delay of the effective date to provide insurance companies sufficient time to develop necessary procedures to comply with the new law.

The Department of Insurance and State Treasurer's office are aware of this proposed legislation, and have no objections or concerns. Fifteen other states have already enacted similar legislation and nine additional states (including Idaho) are currently considering this legislation.

**Chairman Tippetts** said he was supportive of the bill, but he had several questions. He and **Mr. Mackey** discussed the available Death Master File databases, accidental death policies, the 90-day notification requirements and what constituted a complete good faith effort. **Chairman Tippetts** wanted to know about using the word "complete." He wondered if the effort of finding a beneficiary was not completed within 90 days, whether the insurance company would be out of compliance. **Mr. Mackey** said not finding a beneficiary within 90 days was immaterial as the legislation requires that a comparison of the entire Death Master File be done the first time within 90 days. **Chairman Tippetts** and **Mr. Mackey** discussed confirming the death of an insured and how there could be more than one person with the same name or variation of, which could delay the confirmation of death. They went on to discuss how a third party could not act as an agent for the beneficiary; there was no charge to another party, and the cost of the good faith effort was borne by the insurance agency. **Mr. Mackey** said some companies could make isolated cases sufficient enough to be a normal business practice. This bill gives the insurance industry legal room. The goal is to pay the claim in a timely manner. **Chairman Tippetts** and **Mr. Mackey** discussed that whenever there is a violation, the insurance company is subject to having their license revoked, suspended, or receiving a fine of \$1,000 and/or six months in county jail.

**Senator Heider** referred to page 3, lines 20 through 25 and questioned accrued interest on the contract. He also referred to line 24, interest payable under Idaho Code § 41 shall not be payable as unclaimed property. He asked for an explanation and wanted to know if interest was payable to the beneficiary. **Mr. Mackey** explained there were two types of interest, one statutory and one contractual. If the contract calls for interest to accrue, that is payable to the State as income property. If the contract has statutory interest accrued, that will not pass to the State. **Senator Heider** wanted to know if there was any recourse for beneficiaries who want to be paid in a timely manner to impact the process, since they may not know of the existence of all of the policies a decedent may have. **Mr. Mackey** said he was not sure the beneficiary would be helped in any way to know there is a policy until they are notified.

**Senator Cameron** offered to answer the question. He said there was nothing in the legislation that prohibits a beneficiary from doing their own research and going directly to the insurance company and filing a claim.

**Senator Lakey** commented that with today's technology, it is fairly simple to run a list through a computer. **Senator Schmidt** asked if there was a requirement that someone have a social security number. **Mr. Mackey** replied it was a question asked on every application for insurance.

**MOTION:**

**Senator Martin** moved that **S 1023** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Heider** seconded the motion.

**Senator Lakey** said he was in support, but cautioned whether or not the information relating to certain unclaimed life insurance benefits should be required in code.

The motion carried by **voice vote**. Senator Cameron will carry the bill on the floor of the Senate.

**S 1008:** **Relating to Real Estate - Language Relating to A Fee.** **Jeanne Jackson-Heim**, Executive Director, Idaho Real Estate Commission (Commission), said this legislation eliminates the provision for collection of a \$10 administration fee related to the Commission's statutory errors and omissions program. The Commission charged the fee when licensee applications were processed to purchase and renew group insurance. However, for many years licensees have purchased and renewed their insurance directly from the insurance provider. The Commission stopped collecting the administrative fee from group policy holders many years ago. **Executive Director Jackson-Heim** gave a brief description of the changes.

**MOTION:** **Senator Heider** moved that **S 1008** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. Senator Heider will carry the bill on the floor of the Senate.

**S 1006:** **Relating to Idaho Real Estate - Clean up Language.** **Jeanne Jackson-Heim**, Executive Director, Idaho Real Estate Commission (Commission), said this legislation seeks to clean up various provisions in its license law. She went over the changes, including the following: Idaho Code § 54-2004(44) which broadens the definition of "state or jurisdiction" to include foreign states, provinces and emirates by changing the term "foreign country" to "foreign jurisdiction"; Idaho Code §§ 54-2018(7) and 54-2036 to remove obsolete references to "challenge exam," and to change the term "final exam" to "assessment"; Idaho Code § 54-2027(5) to change "working day" to "business day"; Idaho Code § 54-2030 to resolve conflicts with other sections; Idaho Code §§ 54-2032 and 54-2033(2) to add the term "post license" inadvertently omitted in previous legislative enactment; § 54-2039 to make the term "branch manager" consistent with other references and to clarify the duties applicable to branch managers; Idaho Code § 54-2051(4) to clarify that dated signatures are required on all offers to purchase; and to remove an obsolete, confusing and irrelevant Idaho Code § 54-2056(7).

**MOTION:** **Senator Patrick** moved that **S 1006** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. Senator Patrick will carry the bill on the floor of the Senate.

**S 1007:** **Relating to Idaho Real Estate - Non-Sufficient Funds.** **Jeanne Jackson-Heim**, Executive Director, Idaho Real Estate Commission (Commission), said the license law authorizes the Commission to deny, expire, suspend or terminate a license on the grounds the license application fee was paid using a Non-Sufficient Fund (NSF) check. This legislation updates the law to add "any other type of insufficient payment" as a ground to expire, suspend or terminate a license.

**MOTION:** **Senator Lakey** moved to send **S 1007** to the floor of the Senate with a **do pass** recommendation. **Senator Cameron** seconded the motion. The motion carried by **voice vote**. Senator Heider will carry the bill on the floor of the Senate.

**S 1009:** **Relating to Idaho Real Estate - Terms of Course Provider's Certification.** **Jeanne Jackson-Heim**, Executive Director, Idaho Real Estate Commission (Commission), said this bill relates to certified instructors and providers. The license law requires any provider or school that offers courses for real estate license credit to be certified by the Commission. Instructors teaching pre-license, post license and the Commission core course must also be certified. She stated the Commission presently has 98 active status certified providers and 57 certified instructors. Certifications are renewed every other year. Many of the certified instructors are also certified providers and real estate licensees. Some of the instructors have three different renewal dates. Real estate licenses are renewed on the birthday month. Keeping track of the other deadlines is a challenge because those dates do not correspond to any date that makes sense. **Executive Director Jackson-Heim** cited examples. She said that after discussing this issue with a number of certified instructors, the outcome was to change the staggered 2-year renewal dates for

provider and instructor certifications to one annual renewal date on June 30. She explained the reason for the annual renewal date is because many of the certified instructors are certified to teach the required core course which is updated every year due to changes in the law.

The certified instructors pay \$25 every 2 years to renew, and the certified providers pay \$50 every 2 years. This law change would result in a very small increase in fees paid. The Commission has not heard any negative feedback.

**Senator Lakey** wanted to know why the term was changed from two years to one. **Executive Director Jackson-Heim** explained that if someone was licensed before the year was up and the deadline was June 30, the applicant would be charged for two years instead of a few months or a year. **Senator Martin** said he understood the change is easier on the licensee but was wondering about the Commission. **Executive Director Jackson-Heim** explained someone has to do a search and send out letters and doing this once a year will save staff time.

**MOTION:** **Senator Schmidt** moved to send **S 1009** to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. Senator Martin will carry the bill on the floor of the Senate.

**S 1010:** **Relating to Idaho Real Estate - Fee Splitting.** **Jeanne Jackson-Heim**, Executive Director, Idaho Real Estate Commission (Commission). Idaho Code § 54-2054 of the license laws prohibits licensees from fee-splitting with unlicensed persons and also prohibits sales associates from accepting an earned sales commission, fee or other compensation from anyone other than their own broker. Idaho Code § 54-2054(2) provides an exemption for payment by the broker to a legal business entity owner exclusively to active Idaho licensees. This amendment seeks to clarify the scope of that exemption to ensure against misuse and accommodate common industry practices. She said currently there is a loophole. **Executive Director Jackson-Heim** said there was a narrow exception in the law, where payments to unlicensed entities are allowed when Limited Liability Corporations or other business entities are formed for tax purposes, or for licensees who form teams with other licensees in their offices. The broker is allowed to pay fees to these unlicensed entities because the fees were earned by the individual licensees as owners of the business entities. She illustrated, with a diagram, the intent of the license law in making commission payments to licensees. The Commission was not able to determine exactly the purpose of this particular business arrangement, but thought this was being done to allow the agent to hide assets from creditors. She outlined the other changes in the bill.

**MOTION:** **Senator Heider** moved to send **S 1010** to the floor of the Senate with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion carried by **voice vote**. Senator Heider will carry the bill on the floor of the Senate.

**PASSED THE GAVEL:** Chairman Tippetts passed the gavel to Vice Chairman Patrick to review the rules.

**DOCKET NO.  
09-0130-1401:**

**Unemployment Insurance Benefits Administration Rules. Bob Fick**, Communications Manager, Department of Insurance (Department), said the rule is being changed to reflect how the Department currently processes unemployment insurance claims. This rule change will delete references to mailed and in person claims because they are no longer used by the Department. Instead, claims are filed over the Internet, or in special circumstances by telephone. Negotiated rulemaking was conducted. **Communications Manager Fick** said this rule eliminates the provision for in person and mailed-in claims. He said the Department has been using the internet more during the last 20 years. The rule does allow for telephone claims at the Department's discretion for the disabled, limited English speaking, illiterate and computer illiterate applicants. He pointed out that anyone who wants to file a claim has an opportunity. The Department will modify the rule next year to modify the language "at the Department's discretion." **Vice Chairman Patrick** wanted to make sure the Department modified the language to include "new claims may also be filed by telephone at the Department's discretion."

**Senator Cameron** wanted to know how the House voted on this rule. **Communications Manager Fick** said the House committee voted to accept the rule. **Senator Cameron** wanted to know how the Department paid claims. **Communications Manager Fick** said a debit card was issued when a claim was approved or a direct deposit was made into a claimant's bank account. **Senator Cameron** and **Communications Manager Fick** had a conversation about the method of payment. They discussed the idea that some claimants do not have a bank account and that is why a debit card was the other form of payment.

**Chairman Tippetts** expressed a concern the Department changed the practice prior to a rule change. He said he had a discussion with Communications Manager Fick and the Director of the Department. **Communications Manager Fick** explained the change was not an attempt by the Department to change policies without advising the Legislature. He said this was more of a shift with a change in technology. **Chairman Tippetts** stated there was a policy change for claimants by the Department that claims will not be accepted unless filed on-line. The Department changed the policy without the approval of the Legislature.

**Senator Lakey** wanted to know if the Department was taking claims by telephone. **Communications Manager Fick** said claims were being taken over the phone for non-English speaking applicants, the disabled or illiterate.

**MOTION:**

**Senator Martin** moved to approve **Docket No. 09-0130-1401**. **Senator Ward-Engelking** seconded the motion.

**Senator Lakey** stated the Department was not trying to limit applicants from making a claim. Discretion is appropriate in the rule, and it should be stated claimants can use the telephone to avoid potential discrimination. He said for the record, he would be voting against the motion.

The motion carried by **voice vote**.

**PASSED THE  
GAVEL:**

Vice Chairman Patrick passed the gavel to Chairman Tippetts.

**ADJOURNED:**

There being no further business, **Chairman Tippetts** adjourned the meeting at 2:38 p.m.

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Senator Tippetts  
Chair

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Linda Kambeitz  
Secretary