

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 24, 2015

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: None

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.

MINUTES APPROVAL: **Vice Chairman Patrick** moved to approve the Minutes of February 3, 2015. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of February 12, 2015. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

RS 23601: **Relating to Driving Schools. Chairman Tippetts** said this legislation requires \$5 of each fee paid for a class D driver's training permit be paid to either the Driver Training Account, if the person is taking driver's training from a public school; or the Bureau of Occupational Licenses (Bureau) for deposit in the State Treasury to the credit of the Occupational Licenses Fund (Fund), if the person is taking driver's training from a private driver's training program. Currently, this \$5 is paid to the Driver Training Account regardless of whether the student is enrolled in driver's training through a public school or through a private driving school. It is estimated that approximately \$25,000 per year would be credited to the Fund rather than to the Driver Training Account.

Chairman Tippetts explained the only way to have the RS printed as a bill would be to ask for unanimous consent to send to a privileged committee.

UNANIMOUS CONSENT REQUEST: **Chairman Tippetts** asked for unanimous consent to send **RS 23601** to the Judiciary and Rules Committee for printing. There were no objections.

GUBERNATORIAL APPOINTMENT & VOTE: The appointment of Jeffery Sayer of Eagle, Idaho, as Director, Department of Commerce (Department), to serve a term commencing January 5, 2015 and expiring on January 7, 2019.

Director Sayer thanked the Committee for their time, support and consideration. He was given the task by the Governor to lead the State's economy and bring business principles to state government. He wants to make sure the Department is run effectively with good, solid basic principles. He talked about the changes and accomplishments of the Department. He said he was very proud of the team at the Department and excited about the future.

MOTION: **Senator Martin** moved to send the gubernatorial appointment of Jeffery Sayer as the Director, Department of Commerce, to the floor with the recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion.

Senator Cameron thanked Mr. Sayer for doing a great job. **Chairman Tippetts** said he also appreciated the great job done by Mr. Sayer.

The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT & VOTE: The appointment of Gavin Gee of Boise, Idaho, as Director, Department of Finance (Department), to serve a term commencing January 5, 2015 and expiring on January 7, 2019.

Director Gee thanked the Committee for their time and consideration. He said he was honored to be reappointed. He was grateful for the improvement in the economy. **Chairman Tippetts** thanked him for his service. **Senator Schmidt** and **Director Gee** had a conversation about the challenge of keeping employees for a long period of time due to competition with the federal government, which pays higher salaries.

MOTION: **Senator Ward-Engelking** moved to send the gubernatorial appointment of Gavin Gee as the Director, Department of Finance, to the floor with the recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion.

Senator Cameron disclosed for the record he has a securities license.

Vice Chairman Patrick said he had known Mr. Gee for many years, he was dedicated and he thanked him for his work. **Senator Heider** said he appreciated the work Mr. Gee has done. He said Mr. Gee's Department listens to the people of Idaho. He was impressed with Mr. Gee bringing issues forward and commended him for his integrity.

The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT & VOTE: The appointment of Thomas Baskin of Boise, Idaho, as Commissioner for the Idaho Industrial Commission (Commission), to serve a term commencing January 13, 2015 and expiring January 13, 2021.

Mr. Baskin thanked the Committee for their time and consideration. He talked about the rights of employers and injured workers. He said he was a workers' compensation attorney before becoming commissioner. He said he knows about the law and how it works. He said the Commission is comprised of a representative from labor, industry and the legal field. Their deliberations are always thoughtful. **Mr. Baskin** wanted the Committee to know he was interested in continuing in his position. He pointed out there was a need to look at electronic filing and management for the future. He noted there was a move in the nation to adopt evidence-based medicine, which would make medical care more efficacious.

Senator Cameron and **Mr. Baskin** discussed Mr. Baskin's previous career as an attorney when he represented employers and sureties. **Mr. Baskin** said he has made a serious effort to apply the law to the facts and to be unbiased. They discussed how Mr. Baskin would handle a possible conflict of interest involving a former client. **Mr. Baskin** stated he was not handling a case that involved a former client and has always practiced full disclosure.

Senator Schmidt noted that Mr. Baskin had listed his party affiliation as an

Independent on his application, but that party is not recognized in Idaho. **Mr. Baskin** said he is now a registered Republican.

MOTION: **Senator Schmidt** moved to send the gubernatorial appointment of Thomas Baskin as Commissioner for the Idaho Industrial Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

S 1080: **Relating to Genetic Counseling. Heather Hussey**, Genetic Counselor with St. Luke's, said this legislation creates a licensing system and licensing requirements for genetic counselors. The legislation provides a short title and definitions and defines the scope of practice for genetic counselors, which includes interpreting family and medical histories to assess risk of disease, educating families about inheritance, genetic testing, disease management and prevention, and ensuring that genetic information is used appropriately in the delivery of medical care. Recognizing that genetic counseling profoundly affects the lives of people of the State of Idaho, it is the purpose of this act to set standards of qualification, education, training and experience, and professional competence for those who engage in the practice of genetic counseling and to protect the public from unprofessional conduct by both unlicensed persons and persons licensed to practice genetic counseling. There will be no fiscal impact on state or local funds.

Ms. Hussey stated there are 12 licensed genetic counselors in Idaho. **Ms. Hussey** said that since presenting this legislation last year, a few changes have been made in response to the recommendations of this Committee. They have met with the Bureau of Occupational Licenses (Bureau) to develop a business plan that will ensure that genetic counselor licensure would not impact state or local funds. The number of board members has been reduced and the fees have been lowered by 50 percent. The penalty language has been modified to be in line with other licensing in the State. There were minor changes that needed to be made, and she asked if the bill could be sent to the Amending Order and to the floor of the Senate.

Senator Lakey and **Ms. Hussey** had a conversation about the genetic counselors in surrounding states who are serving Idahoans and how the licensing requirements being proposed would affect those counselors. **Ms. Hussey** said that anyone wishing to practice genetic counseling in Idaho would have to be licensed. They discussed the formal training requirement of 200 hours and the requirement of the practice of genetic counseling for at least 5 hours per week for at least the 5 years immediately prior to the date of application. **Ms. Hussey** said the requirements came from input from practitioners, since so many of them do counseling on a consistent basis.

TESTIMONY: **Amy Rohyans Stewart**, Certified Child Life Specialist, St. Luke's Children's Hospital, representing herself, testified in support of this bill. She talked about her family history of cancer. She said she adopted a Down syndrome child who had many health issues, one of which was hyperparathyroidism. Her meeting with genetic counselors helped her understand "what if" her daughter had cancer and the options for treatment. She said she was impressed with the knowledge of the genetic counselors and their command of the information and data. Because of meeting with the genetic counselors, she and her husband felt armed with solid questions and information to take to their physician for future planning.

Wayne Hoffman, President of the Idaho Freedom Foundation, spoke in opposition of this bill. He said he opposed this bill last year and his reasons have not changed. He stated licensure does not make people more protected. He said licensure increased the cost of medicine. He said this bill would make it

harder for people to make a living. He felt the language in the bill was restrictive and exclusionary.

Dr. Dan Zukerman, Board certified medical oncologist and Executive Medical Director, St. Luke's Mountain States Tumor Institute (MSTI), testified in support of this bill. He said this legislation was overdue. He said genetic counseling is an established and recognized profession in health care delivery. He said he has worked with genetic counselors throughout his tenure in medicine, and they are recognized as valuable members of the health care team. Providing genetic services to individuals and their families is a complex endeavor that involves not only making diagnoses and treatment decisions, but also eliciting a detailed family and medical history, assessing genetic risk and educating families about complicated genetic information. This requires considerable time and he relies upon genetic counselors as valued professional colleagues working with him to complete the myriad of tasks involved in providing quality care.

Dr. Zukerman said the number of physicians specifically trained in genetics is not increasing at a sufficient rate to meet the future demands for genetics expertise. He stated that over the last several years, direct-to-consumer testing has emerged, and several companies now offer genetic testing directly to the public without the involvement of a health care provider. This significantly increases the potential for confusion over the meaning of test results with increased potential harm to the public. He noted, as a physician, he is concerned that individuals are receiving genetic information without understanding the medical and psychosocial implications. His greatest concern is that the public will be at risk for receiving genetic services through unqualified providers. Licensure is central to ensuring access to appropriately trained health professionals and will ensure that patients and families receive quality genetic services in the State of Idaho.

Senator Schmidt said his impression was that all genetic counselors were employed by St. Luke's. He wanted to know how licensure would change the quality of performance. **Dr. Zuckerman** and **Senator Schmidt** had a conversation about the cost of licensure, inappropriate testing and advising, and the cost of health care. They also discussed the performance of genetic counselors. **Dr. Zuckerman** said many doctors say genetic counselors know more about genetics than they do, because the counselors continue to train. He pointed out that sometimes genetic testing costs thousands of dollars and sometimes the tests are not necessary. In addition, an inappropriate diagnosis can result in unnecessary surgery, which would contribute to the cost of health care.

Molly Steckel, representing the Idaho Medical Association (IMA), said she appreciates working with the genetic counselors. She agreed with Dr. Zuckerman about the complexity of cases, and that licensure is needed. She stated the IMA did not have an official position. She has heard from physicians who are in favor of this bill.

Ms. Hussey summarized her previous testimony and thanked all who testified, saying she appreciated the help.

Vice Chairman Patrick wanted to know if the conscience clause should be in the bill. **Ms. Hussey** said the genetic counselors were bound by a code of ethics and could not answer questions about what a person should do. She said most studies have found that when genetic counselors are involved, patients are much more informed and comfortable with whatever decision they make.

Senator Heider referred to the statement of purpose and wanted to know how the public would be protected from unprofessional conduct by both unlicensed persons and persons licensed to practice genetic counseling. He also wanted to know what the penalty was if a genetic counselor practiced without a license. **Ms. Hussey** replied that was one of the reasons why the Bureau is involved since they have a history of handling these kinds of issues.

Chairman Tippetts directed the Committee to the sections in the bill referring to denial of license, disciplinary proceedings and certain prohibited acts.

Senator Lakey and **Ms. Hussey** had a discussion about a genetic counselor answering a patient when asked for advice about making a decision. **Ms. Hussey** said a genetic counselor is trained to redirect the question back to the patient to help them make an informed decision about their care. The genetic counselor tries to find a common ground to support the patient in making a decision.

Senator Cameron wanted to know what amendments needed to be made to this bill. **Ms. Hussey** went over the changes, which included a grammatical change and a clarification of exemptions for physicians.

MOTION:

Senator Ward-Engelking moved to send **S 1080** to the floor of the Senate with a recommendation to refer this bill to the amending order. **Vice Chairman Patrick** seconded the motion.

Senator Heider expressed a concern about the fiscal note. He said that whenever there is a licensing board involved, costs are incurred and the fiscal note does not reflect the true cost of this legislation. **Chairman Tippetts** commented the fiscal impact was to those seeking licensure and the fee would cover the cost of operating the board. He said he thought it was accurate to say there was no fiscal impact to the State.

Senator Schmidt said he has had many discussions about genetic counselors and said he was comfortable with the genetic counselor group. He said he was not sure licensure would necessarily make a good counselor, but he was in support of this bill. **Chairman Tippetts** commented the genetic counselors had consulted with the Bureau.

Senator Cameron stated the fiscal note does not impact the General Fund. He said it would be good to have the fiscal impact note from the Bureau. He suggested the fiscal note could be written more clearly regarding the allocation of funds and the anticipated spending in the future. He said he agreed with Senator Heider.

Chairman Tippetts asked Ms. Hussey and Ms. Eichmeyer if they would be willing to compile the information requested by Senator Cameron. **Ms. Hussey** said hypothetical scenarios were outlined in the business plan. She said genetic counselors could not officially project those figures but would be under the auspices of the Bureau. **Senator Cameron** clarified that the fiscal note requirement would be an estimate. He said from a budgeting standpoint the Joint Finance-Appropriations Committee (JFAC) looks at fiscal notes. He stated the revised fiscal note would be important for the passage of this bill. **Senator Heider** suggested the fiscal note be included in the revision and recommended an amended fiscal note.

The motion carried by **voice vote**.

**MINUTES
APPROVAL:**

S 1001:

Senator Lee moved to approve the Minutes of February 5, 2015. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

Relating to Workplace Safety. **Tom Limbaugh**, Commissioner, Industrial Commission (Commission), said the language was worked on jointly by the Division of Building Safety (DBS) and the Commission over the past year.

He said the Commission's Advisory Committee formed a workplace safety subcommittee to work through these proposed changes. The invited members represented labor, self-insured employers, insurance companies, the State Insurance Fund, the logging industry, the Association of Idaho Cities, the Idaho Association of Highway Districts, the Idaho Retailers Association, the National Federation of Independent Business, the Idaho Association of Commerce and Industry, the Idaho Hospital Association, the Legislative Budget Office, the Division of Financial Management, the DBS and the Commission.

Mr. Limbaugh gave a brief history of the Industrial Accident Board (Board), which was given authority over workplace safety. He noted, however, in 1971, as part of a major recodification of the workers' compensation laws, the Legislature assigned the responsibility over workplace safety to the Industrial Accident Board, renamed the Industrial Commission. He outlined the history of the Occupational Safety and Health Act (OSHA) and said as a result of federal preemption, current Idaho law incorrectly vests the Commission with authority over private workplace safety. State and local government workplaces are excluded from federal coverage under OSHA.

This legislation clarifies the scope of safety inspections and programs, and transfers all related responsibilities to the DBS, the majority of which they now hold. Further, this proposal identifies the continued use of the Commission's Administration Fund to fund DBS inspections of public buildings, public schools and the logging safety training programs and permits the Administrator to issue a stop work order where evidence reveals a logging workplace safety condition that poses an immediate threat of serious bodily harm or loss of life to employees or members of the public. It provides for enforcement of that order by the Attorney General and makes a known violation of such a safety order a misdemeanor.

Mr. Limbaugh said this legislation authorizes the Administrator of the DBS to conduct safety inspections of buildings owned or maintained by other political subdivisions of the State upon receipt of a written request from the governing body of that political subdivision. Inspections would be subject to the availability of DBS resources and an agreement by the political subdivision to pay the DBS's current fees. The findings of these inspections will be reported to the governing body of the political subdivision.

Kelly Pearce, Administrator, DBS, said the duties now performed by the DBS would be in statute. There will be no changes in the pattern and in the number of personnel.

Senator Cameron discussed the language in the statute that vested the responsibility with the Industrial Commission. They talked about the importance of protecting worker safety and the components of workers' compensation. **Mr. Limbaugh** stated Idaho law has never been changed to recognize OSHA. He commented if Idaho had to adopt rules related to safety inspections, the State would still have authority over the private workplace, which is in direct conflict with OSHA. The Commission does not have the authority. The other problem is that workers' compensation is a no fault system, which bars employees from

making a tort claim against a company. He cited several examples.

Due to the lack of time, this bill was rescheduled.

ADJOURNED:

There being no further business, **Chairman Tippetts** adjourned the meeting at 2:57 p.m.

Senator Tippetts
Chair

Linda Kambeitz
Secretary