

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 24, 2015

TIME: 1:00 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. and welcomed all.

S 1168: **Relating to Finance. Senator Cameron** said this bill permanently reduces the premium tax rate for workers' compensation insurance premiums that flow to the Industrial Commission (Commission) from 2.5 percent to 2 percent. **Senator Cameron** stated the Commission, working together with the Joint Finance-Appropriations Committee (JFAC), found there was an excessive amount of money in the reserve accounts. A process ensued in which the Commission recommended a temporary reduction in the premium tax from 2.5 percent to 2 percent. However, there was a sunset clause after two years. In 2013 the Commission came before the Legislature and proposed that the sunset clause be extended another two years, which was done. The current premium tax remains at 2 percent. The bill permanently leaves the premium tax at 2 percent. **Senator Cameron** referred to page 2 of the bill outlining a cash analysis of the Commission's current operations as well as what the operations would be in the event this bill were to pass. The Commission is one of the few agencies that has the opportunity to invest excess funds in long-term investments. In both cases, the reserves at the end of 2018 in the long-term investment account would be at \$11.5 million plus whatever else is in the operation capital.

Senator Cameron stated that at a meeting with Mr. Limbaugh, Commissioner, and Chairman Tippetts, there was a concern expressed about the long-term viability. It was decided that a more conservative, more cautious approach would be to extend the sunset for five years, rather than an ongoing situation. **Senator Cameron** referred to the last page (see attachment 1) as an alternative. He said he was supportive of sending **S 1168** to the Amending Order with a sunset clause after five years, if that is the desire of the Committee.

Senator Schmidt said he was wondering about the risks and benefits of the amendment. **Senator Cameron** said there was a comment made that the Legislature would not have to act this year. But he thought it would be inappropriate if a change was not made for employers who are paying workers' compensation premiums and would potentially pay a higher premium tax. He said he realized that next year a retroactive to the January 1 emergency clause could be enacted, but employers would have been billed based on a 2.5 percent premium tax. The benefit of not amending the premium tax is timing. **Senator Cameron** said he was confident that the Commission will be able to manage under current levels at 2 percent. The Commission, however, has some reservations, so the benefit of amending the bill would be the ability to examine the tax for five years. A decision

could be made to allow the sunset clause to expire if revenue was declining, or the clause could be addressed and further extended. Due to prior history, the Commission is cautious about trying to avoid raising premium taxes in the future.

MOTION: **Senator Heider** moved to send **S 1168** to the floor with a **do pass** recommendation. **Vice Chairman Patrick** seconded the motion.

Senator Heider commented he thought in the future another bill could be brought forward to increase or decrease the premium tax.

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

SCR 125: **Relating to Health Care Sharing Ministries.** **Senator Nuxoll** said this resolution urges Congress to provide another option for citizens to access medical care and reduce costs by allowing a Health Care Sharing Ministry (HCSM) with a Health Savings Account (HSA).

Senator Nuxoll said HCSMs are charitable organizations that cater to people of similar faith who choose to help each other pay their medical bills. Their ministry is based on the biblical belief of personal responsibility, and may be called upon to share one another's medical financial burdens when they are greater than they can bear. HCSM participants retain possession of their money until it is needed by another participant for health care costs. Instead of premiums, "shares" are assigned to each HCSM participant. Every month, participants send their shares (checks), which are financial gifts to help pay for medical bills, to another participant who has a qualified medical need. The organization itself is a facilitator of the contributions among the participants who have financial or medical needs.

HCSMs act as a clearinghouse of information at each ministry's central office. The central offices coordinate monthly giving and publish the needs via a newsletter, household-to-household, family-to-family, in order that all needs are met through this community approach. Congress recognized HCSMs as legitimate and exempts the participants from the individual responsibility requirement in the Affordable Care Act (ACA). This means that participants in HCSMs are not required to purchase health insurance, nor will they be fined or penalized for not purchasing health insurance. Participants know that they will not be breaking the law of the ACA.

Senator Nuxoll stated the names of these ministries are Samaritan Ministries, Medi-Share, and Christian Health Care Ministries. In 2013, there were approximately 800 households in Idaho participating in HCSMs, which equates to approximately 2,500 individuals. They have increased exponentially since 2013. Nationally, HCSMs involve a community of approximately 350,000 Christians in all 50 states who share the cost of their medical events without insurance.

Senator Nuxoll explained why someone would want to participate. She said Christians choose to participate in an HCSM for two main reasons. One reason is they desire to choose health care solutions consistent with their beliefs or ethics. Many insurance companies pay for procedures that are considered morally objectionable. Secondly, many HCSM participants have often been priced out of the conventional insurance market or simply cannot afford an insurance plan that continues to rise at a rate exceeding that of inflation. **Senator Nuxoll** cited some other reasons. Namely, these ministries can also be used as a supplement for Medicare. There are programs to help members with the costs or pre-existing conditions, and membership is not cancelled because of a costly condition.

Senator Nuxoll explained shares for a family range from around \$345 to \$524 per month. She cited examples of HCSMs being used to replace high deductible

insurance. She said Samaritan Ministry charges one administrative fee per year with payments of \$405 per month for a family of four. Shares can increase or decrease. The maximum limit is \$250,000 per event. Participants must pay the first \$300 on claims. Christian Health Care Sharing Ministry for a family of six charges one administrative fee of \$100 and \$40 per year thereafter, with payments of \$470 per month with a payment of \$500 per claim and no cap per incident. **Senator Nuxoll** said they will cover pre-existing conditions for \$15,000 for the first year, \$25,000 the second year and \$40,000 the third year. Expenses are totally covered after the third year.

Senator Nuxoll explained HCSMs have been looking for ways to strengthen their place in the market. One way is to allow participation in an HCSM as an alternative to a High-Deductible Health Plan (HDHP) when opening an HSA. She explained that an HSA is a type of personal savings account. The law requires that it be combined with a qualified HDHP. The HDHP is designed to protect the insured from the high cost of a catastrophic illness, extended hospitalization, or pay for unusually high health care costs. Because of the high deductible in these insurance plans, the HSA can be set up and used for meeting lower-cost health care expenses before the HDHP deductible is met. These health care expenses must be qualified and allowed under the Internal Revenue Code. HSAs can provide consumers flexibility and choice, along with incentives to become careful consumers. The HSA can be administered by a bank, insurance company, or approved third party. As long as the insured has a qualified HDHP, contributions to the HSA can be made tax-free. Employers are allowed to make tax-free deposits to an employee's HSA. As of 2014, an individual may deposit and save up to \$3,300 per year. For a family up to \$6,550 per year may be deposited and saved. If the HSA owner is age 55 or older, an additional \$1,000 "catch up" contribution can be made into the account for a total of \$4,300 for individuals and \$7,550 for families. Each year, the amount will increase based on the Consumer Price Index (CPI).

Vice Chairman Patrick asked if this resolution was to allow an HCSM in place of an HDHP. **Senator Nuxoll** said this bill is to allow HCSMs to be used with an HSA. A family or a person will be allowed to have a HSA and HCSM to replace a HDHP. The HDHP is currently required by the ACA.

Senator Cameron referred to page 2, line 2, and wanted to know what "this" on line 6 meant. He also wanted to know about line 7 and referred to "support choice", as he was confused by the language. **Senator Nuxoll** explained "this" refers to HCSMs. **Senator Cameron** said the State of Idaho currently has a Medical Savings Account (MSA), which is slightly different than an HSA. The Idaho MSA does not have all of the requirements of the federal government and is state tax deductible. In some cases an HSA may qualify for a federal tax deduction. **Senator Cameron** wanted to know if Senator Nuxoll had considered changing the law allowing HCSMs with the purchase of a MSA. **Senator Nuxoll** said she and Senator Thayn have been working on this item. **Senator Thayn** said his understanding is that MSAs do not require an accompanying health insurance policy. **Senator Cameron** agreed, but said one could interpret that a MSA is designed to go with an HDHP, although not required by state law. He commented that some people use an MSA with an HCSM plan rather than an HSA. **Senator Thayn** stated that in his understanding the reason this was not done already was because this was allowed under state law.

Senator Cameron stated that typically when there is a resolution, there will also be a "now, therefore, we direct this be sent to someone" and he does not see that phrase in this resolution. He said this resolution does not have a direction and wanted to know if he was missing something. **Senator Nuxoll** said Legislative Services drafted this resolution and it is the same as others. She said the resolution could be amended. **Senator Cameron** stated resolutions are not amended. He

commented that from a public policy standpoint, the resolution was fine.

Senator Schmidt said he thought that last year the Committee clearly specified that HCSMs were not insurance and referred to line 41, "citizens who open a HSA would have the ability to choose between participation in a HCSM or the purchase of a HDHP." He stated the resolution is saying the HCSM and an HDHP are comparable in the marketplace. However, Idaho statute says an HCSM and a HDHP are not considered the same. **Senator Nuxoll** said one could be used in place of the other, but a HCSM is not insurance. An HCSM is to be used in place of insurance and this resolution is asking Congress to change legislation so that this can be used in place of an HDHP. **Senator Schmidt** stated there was one HCSM that was grandfathered where participants were excluded from the requirement for having personal insurance. He wanted to know about the growth of the HCSM that was grandfathered. **Senator Nuxoll** said there are three or more HCSMs now, and they have all grown.

TESTIMONY:

Lois Knight, representing herself, testified in support of the resolution. She said she belongs to Samaritan Ministry, which is not insurance. When she had insurance policies in the past they were too costly. She said the deductible under an HCSM is \$350 for an event instead of \$5,000. She said she has belonged to the ministry for five years and has had one claim, and the money comes from individuals.

Senator Cameron wanted to know if someone filed a claim was the amount disbursed among members who then help pay for the claim. **Ms. Knight** said yes. **Senator Cameron** wanted to know if an assigned amount of a \$1,000 contribution towards a claim was tax deductible as a charitable contribution. **Ms. Knight** said it was not. **Senator Cameron** wanted to know if Ms. Knight put money into an HSA and received the tax deduction, would she withdraw money from the HSA to pay the assigned portion of her HCSM. **Ms. Knight** said that was not her understanding, but that it was for other needs. **Senator Cameron** wanted to know if it was the goal that there may be some services that the HCSM would not cover and therefore she would want to be able to participate in an HSA to cover those expenses. **Ms. Knight** said that was her goal.

Senator Schmidt said his understanding is that the HCSM is comprised of people of like religious backgrounds, and he wanted to know if there were certain obligations to maintain annual membership and was anyone excluded. **Ms. Knight** said there is an annual set of questions, but she did not know of anyone who has been excluded.

Jason Robinson, representing himself, testified in support of the resolution. He said the HCSM has helped his family immensely. He said the ACA has doubled premiums for families making middle class wages or has forced them on Medicaid. He said his premiums and deductibles more than tripled. He said he had three ACA plans, which are tied to employment. He could not get insurance through the ACA or through Your Health Idaho because he qualified for the Children's Health Insurance Program (CHIP) and Medicaid. The only real option for those who have fallen through the cracks of the ACA and for people of faith, in particular, is an HCSM. He said the HCSM combined with a HSA plan allows for participants to pay for the medical services that are not covered by an HCSM, such as wellness checkups and other preventative measures. Anything other than a major expense is out-of-pocket. An HSA allows for participants to put tax-deferred monies into an HSA account to pay for those expenses that are not covered by the HCSM. This measure seeks to put those involved in an HCSM on parity. The shared amount is fixed per year, which is adjusted on a one-or-two-year schedule. Participants never pay more per month for someone else's claim.

Casey Haveman, representing himself, testified in support of the resolution. He said he has been a member of the HCSM Samaritans for five years.

Christian Brown, representing himself, testified in support of the resolution. He said he was an attorney and participated with Samaritan Ministries, which covers and pays more. No elective tests are covered, but an HSA can free up money for those expenses. He stated he could write off his shares every month on his taxes.

MOTION: **Senator Martin** moved to send **SCR 125** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Nuxoll will carry the resolution on the floor.

**PASSED
GAVEL:** **Chairman Tippets** passed the gavel to **Vice Chairman Patrick**.

**DOCKET NO.
38-0501-1401:** **Rules of the Division of Purchasing.** Sarah Hilderbrand, State Purchasing Manager, summarized the proposed rule. **Ms. Hilderbrand** said these proposed rules are the result of hundreds of hours of work by the Division of Purchasing (Division), in concert with the Deputy Attorney General, and other state agencies, through the negotiated rulemaking process. The primary impetus for the proposed changes was the Office of Performance Evaluations' (OPE) study, "Strengthening Contract Management in Idaho," released in January of 2013, which was initially promulgated by a joint resolution. The Division responded to OPE's recommendations with a report which was presented to the Joint Legislative Oversight Committee (JLOC) in January of 2014. At that time, the Division's report to JLOC met with a favorable response, as a number of new forms, templates, and training opportunities were presented; a number of which were instituted at a time when the Division was staffed at around 60 percent capacity for a period of almost two years.

Ms. Hilderbrand stated that buyers and purchasing officers at the Division are some of the best she has ever worked with. They bring a wealth of knowledge from both the private and public sector; and are driven by a desire to provide exemplary service in the best interest of the State and to protect the integrity of the procurement process.

Ms. Hilderbrand said she believes that all of the proposed modifications are a benefit to both the State and to the vendor community. She said the new sections provide additional oversight and independent validation and verification requirements for high dollar service contracts. She said the new sections look very similar to the oversight and validation requirements included in **H 170**, relating to the "Pay for Success for Education Contracts."

Ms. Hilderbrand commented that the Legislature has announced the intent to put an interim committee in place to "undertake a complete study of the purchasing laws of the State of Idaho." She said she looked forward to the Division's participation in this committee. She said she wanted to assist committee members in understanding the application of the current procurement laws and the myriad of procurement-related issues that are addressed on a daily basis. This study is an effort to improve public procurement among the various agencies and throughout the State of Idaho.

Ms. Hilderbrand requested that the following provisions in **Docket No. 38-0501-1401** be accepted: Section 005 (OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS); Section 061 title and subsections 01. and 02. (FORM OF SUBMISSION FOR SOLICITATIONS ISSUED UNDER A FORMAL SEALED PROCEDURE.); Section 071 (PRE-PROPOSAL CONFERENCE) ; Section 072 (PRE-OPENING WITHDRAWAL OR MODIFICATION); Section 074, subsections

01. and 02. (MISTAKES); and Section 112 in whole.

Ms. Hilderbrand asked that all other proposed changes in the docket be rejected, based on the Legislature's proposed resolution to establish an interim committee to strengthen the purchasing laws of the State.

Ms. Hilderbrand explained the changes remove the reference to "telegraph" and allow for electronic signatures for bid submittal, modification and withdrawal. The changes in Sections 072 and 074 clarify the technical procedure for submittal, modification and withdrawal, primarily in terms of timing and location. The addition of Section 112 makes it clear that terms and conditions which violate the Idaho Constitution or Idaho Code will not be effective. She stated the corrections, clarifications and minor additions proposed in these few sections are minimal in nature, help clarify a few processes, and help move the Department into the electronic age. These minor changes will facilitate the process for the State and for vendors and allow an interim committee to have the opportunity to review all of the administrative rules governing purchasing. Dennis Stevenson with the Office of Administrative Rules will work with Legislative Services to ensure that all of the rejected sections are correctly reflected in the concurrent resolution.

MOTION: **Chairman Tippetts** moved to approve Sections 005, 061, Subsections 01. and .02, 071, 072, 074, Subsections 01. and 02. and Section 112 of **Docket No. 38-0501-1401** and to reject the remainder of the rule. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

PASSED GAVEL: **Vice Chairman Patrick** passed the gavel back to Chairman Tippetts.

H 152: **Licensure of Sign Language Interpreters.** **Representative Packer** said that recognizing that sign language interpreters can profoundly affect the lives of the people of the State of Idaho, this bill creates a licensing system and sets qualification standards for those who engage in the practice of sign language interpreting. At least 13 percent of the general population (203,785 Idaho citizens) has a some variety of hearing loss. Of that number, 2.42 percent (34,486 Idaho citizens) experience severe to profound hearing loss and rely on a visual mode of communication. This puts them at a distinct disadvantage because of possible communication of incomplete, incorrect, and unethically delivered information, often by non-qualified interpreters. Ensuring deaf and hard of hearing consumers receive appropriate interpreting services may reduce general threats to the health and safety of this statewide population. Professional interpreter licensing minimizes the liability of hiring entities providing services to deaf consumers. It also ensures equal access to education, the criminal justice system, and health care for deaf children and adults.

There will be no fiscal impact on the State or local funds. The cost of licensing will be borne by licensees and those seeking licenses.

TESTIMONY: **Steven Snow**, Executive Director, Council for the Deaf and Hard of Hearing (Council), said the intent of **H 152** is to define a minimum standard for interpreters working in Idaho and to hold people accountable for their work. This bill does not define nor expand the scope of when or where an interpreter is needed. Under the Americans with Disability Act (ADA) many businesses and government agencies are required to provide a qualified interpreter. Unfortunately, most entities have no way to ensure they are meeting this requirement. This bill provides a way for businesses, courts, and entities hiring interpreters to ensure they are receiving the service for which they have paid.

Director Snow said that in testimony before the House Health and Welfare

Committee, citizens shared stories of having numerous medical or legal appointments that were unnecessary, simply because they could not understand the unqualified interpreter who was provided. Overall, the expense of providing interpreters is reduced when information is conveyed accurately the first time. This bill is not intended to penalize people or agencies trying to do the right thing. It does not cover direct communication or for example, a server who knows sign language and is communicating with patrons at the restaurant. It also does not cover incidental communication, including asking a sales person about the difference between models of an appliance, registering to vote, or paying a fine at a county clerk's window. For rural areas, quality interpretation can still be provided through various technologies, and steps are being taken to make this more widely available.

Director Snow stated the Legislature has already taken strides to recognize the importance of quality interpretation, and American Sign Language (ASL) is distinct from English. The Educational Interpreter Act (Title 33, Chapter 13) was enacted in 2006 and took effect in 2009. This law establishes a minimum standard for interpreters working in K-12 settings. This bill has been crafted to support those standards.

Director Snow said this bill does not increase the burden of providing interpreters in the courts, to business, or other agencies. Rather, it provides a mechanism for them to ensure they are receiving the quality of service they believe they are receiving. **Director Snow** explained there are other ways to have access to a sign language interpreter, including video remote interpreting.

In 2007, through two concurrent resolutions, the Legislature first recognized ASL "as a separate and complete language with its own unique grammar and syntax." **SCR 102**, adopted in 2007, clarified that ASL is a foreign language. Further, in a second concurrent resolution, this body recognized that "children who are deaf or hard of hearing benefit from qualified teachers, interpreters and resource personnel who communicate effectively with each child in that child's method of communication."

Director Snow talked about the fake interpreter for Nelson Mandela that was on the news and said that happens to Idahoans every day. He said some children have to sign for their parents. Only 5 to 10 percent of parents can sign at a basic level. Many do not know enough to interpret accurately. He gave several other examples of non-qualified interpreters who have caused problems by giving incorrect information through signing.

Director Snow stated that if this bill passes there will be a temporary shortage of qualified ASL interpreters. However, he pointed out that the pool will expand, as proven in other states that have approved licensed ASL interpreters.

Senator Schmidt and **Director Snow** had a conversation about certification and licensing requirements. **Director Snow** mentioned there are nationally recognized levels of certification. They went on to discuss confidentiality and mandated reporting. **Director Snow** said specific points could be outlined by the Bureau of Occupational Licenses (Bureau).

Senator Cameron wanted to know about the fiscal impact on agencies due to the possible shortage of qualified interpreters. **Director Snow** said that if an entity was already using a licensed interpreter, there has not been an increase in costs. However, if an entity is using an unlicensed interpreter, the costs would increase.

Senator Cameron asked if there was a requirement that an entity would be required to use a licensed interpreter. **Director Snow** replied there is a requirement for those entities that are providing interpreters under the ADA that the interpreter

has to be licensed. There is an exception under the ADA that if someone went to the emergency room, the hospital can use a family member to interpret until an ASL interpreter arrives.

Senator Cameron and **Director Snow** had a conversation about civil and misdemeanor penalties imposed on someone who acts as an ASL interpreter but is not licensed. The process would start with the Bureau receiving a complaint and they would send a letter informing the unlicensed interpreter they were in violation of the law. If the person persisted, then stricter penalties would be imposed. **Senator Cameron** and **Director Snow** talked about someone who was asked to interpret in the case of an emergency. There was no penalty under the rules of the ADA because the ADA would consider what is reasonable and what is not reasonable.

Chairman Tippetts referred to page 3, line 8, and said scope of practice is defined, "on and after July 1, 2016, a person who provides interpreting services in a general setting or a Pre-K-12 setting must be licensed", but on page 2, line 17, "general setting" is defined which says interpreting services must be required in the general setting. **Chairman Tippetts** read the definition. He wanted to know about the language "and other settings" and the licensing requirement when services are provided for these settings, but pointed out that all of the settings have not been identified. He said he felt that "and other settings" was very broad. He wondered how he would know to which "other settings" this legislation applies. **Director Snow** said that under the ADA, Titles 1, 2 and 3 identify where an interpreter must be provided. Included in those titles are government and public accommodations, regulations for non-profits and what is exempt and what is not. The language does seem broad, but it is because "other settings" are detailed by the ADA. The concern was that if every potential setting that might come up was listed, the legislation would be an inch thick. He said he wanted to make sure the ADA requirements were followed and any loopholes were avoided.

Chairman Tippetts referred to page 3, line 20 and wanted to know about the exemptions and said he did not find many. He did not see any exemption for a family member in a business or medical setting or an emergency, and he wanted to know why the ADA provisions would apply and not Idaho statute. **Director Snow** said the exemptions identified in the bill have to do with who is interpreting. The ADA does not provide exemptions for individuals, which is what is being addressed in the bill. The ADA provides exemptions for "settings." He said in terms of using family members, the Department of Justice (DOJ) has clearly said that is not allowed and is illegal, which has nothing to do with a licensure requirement, but has to do with when an interpreter is provided. The DOJ has recognized that in exigent situations where there is an emergency, that may be more reasonable. The scope of when or where an interpreter may be provided is not being changed. Only those who can perform the services are being identified.

Chairman Tippetts said on page 6, line 17 referring to a provisional license, he thought the paragraph did not read correctly and something was left out. He read the sentence, "the Board may grant a person who has been granted a provisional sign language interpreter license to practice sign language interpreting upon filing an application with the board and payment of the fee established by board rule." He asked Director Snow to explain the first two lines. **Director Snow** explained that in Idaho there are three categories of interpreters. There are those who are certified interpreters who have already met a minimum standard; there are good interpreters who have the skills, but do not have the credential or documentation; and there are the interpreters who do not have the skill at all. A provisional license would give an interpreter up to three years so that they could take a competency exam to get a credential and a general interpreting license.

Senator Heider wanted to know where out of the 200,000 people in the State of Idaho, would all of the qualified interpreters come from to keep up with the demand. **Director Snow** said that the 200,000 people have some level of hearing loss, including senior citizens who do not use sign language and people who listen to their iPods too loudly and have some hearing loss, so interpreters are not needed for all. The largest percentage do not use sign language interpreters. The group that needs interpreters is approximately 4,000 to 5,000 Idahoans. **Senator Heider** wanted to know if every school has interpreters to handle the student population, including preschoolers referred to in the bill. **Director Snow** said school districts typically identify one school as a magnet school where the deaf program is housed and interpreters are provided.

Vice Chairman Patrick said he was concerned about unintended consequences. He wondered if one "signs", are they committing a misdemeanor because they are interpreting. **Director Snow** said that is not reasonable for someone to be charged with a misdemeanor for interpreting. If one is having a casual conversation, doing some counseling or giving some advice that does not necessarily mean a license is needed.

TESTIMONY:

Fred Birnbaum, Vice President, Idaho Freedom Foundation, testified in opposition to the bill. He said the bill was more restrictive than the ADA. He said a qualified interpreter must be provided, such as at the dentist office, or that would be interpreted as a misdemeanor. He said the fee structure was steep. The penalties in the fee structure would likely drive someone out of the practice of sign language interpretation if they were doing it on a part-time basis or wanted to volunteer. To require everyone to be licensed in such broad settings as outlined in this bill goes beyond the ADA requirements. He said the danger is not potential. Unintended consequences would be created, and he wanted the bill amended.

Clifford Hanks, representing Network Interpreting Service, testified in support of the bill. He said fully qualified licensed professionals should be utilized to broker key threads in the fabric in the lives of the deaf and hard of hearing. When licensed professionals provide their services to members of the public who are deaf, they should be utilizing a fully-qualified person to broker services.

Senator Schmidt wanted to know how many people in Idaho would pursue licensure. **Mr. Hanks** said those who want to work professionally as an interpreter would pursue licensing. He said his company only works with certified interpreters. The impact to his company and the services involved in coordinating, would be minimal.

Senator Heider wanted to know who certifies interpreters. **Mr. Hanks** said interpreters are certified by the Registry of Interpreters for the Deaf, which is a national certifying organization. **Senator Heider** wanted to know if a board was established and met once a year; he thought the board would have to meet many times to certify all interpreters in the State. How would that be accomplished? **Mr. Hanks** said there were approximately 40 to 60 interpreters in the State. **Senator Heider** wanted to know if there were 40 to 60 interpreters that had to be certified. **Mr. Hanks** said that ultimately he hoped there would be more than that. Since they are already certified, the process before the board should not be very complicated.

TESTIMONY:

Michael Henderson, legal counsel, Administrative Office of the Idaho Supreme Court, commented about the court's independent constitutional obligations of access and due process, irrespective of the provisions of this bill. He said this bill was well-intentioned and the court had no opinion. He talked about the constitutional obligations of guaranteed access to the courts for all, due process and the guarantee for an individual to speak at trial. These rights extend to all persons, including those who are non-English speaking and those who are deaf or hard of hearing. The ADA also provides protection and opportunities for the deaf and hard of hearing. Meeting the obligations of these constitutional and statutory provisions is a challenge.

He also talked about Rule 52, the Idaho Supreme Court's policy declaration involving court interpreters. The purpose of the Rule is to secure the rights of persons who because of non-English speaking cultural background or physical impairment are unable to understand or communicate adequately in the courts. The courts strive to use the best interpreters, or a lower level interpreter only for good cause, depending upon availability. In extraordinary circumstances, if none of the levels of interpreters are available and it is necessary to conduct the proceedings before an interpreter is available, the court may find an interpreter who is able to perform the interpretation.

Mr. Henderson said there is a concern about finding licensed interpreters when there is not enough lead time before a proceeding. Some court proceedings must be conducted within tight timelines. He said there is a concern about having enough licensed interpreters. What is clear is the courts will not be able to use a licensed interpreter for everything. Non-licensed interpreters will have to be used on short notice.

Mr. Henderson expressed concerns about the bill. Interpreters should not be liable for prosecution, as they would be under this bill. The fiscal note says there will be no fiscal impact on state or local funds, but in fact, having a licensed sign language interpreter available at every government office will cost money. The true cost should be considered. He said it was necessary to tell the Committee about the effects of this bill.

Senator Schmidt wanted to know how the court dealt with interpreters for other languages. **Mr. Henderson** said the process was the same, but sign language was more challenging. **Senator Schmidt** wanted to know if there was a similar certification requirement for foreign language interpreters. **Mr. Henderson** said there were certificate requirements established within the court system that an individual would have to meet. The court does not always have an interpreter at a master level. **Senator Lakey** asked if there was a certification process for language interpreters, but not a licensure requirement. **Mr. Henderson** said there was no licensure requirement.

Janica Bisharat, Director of Court Management Division, Idaho Supreme Court, said that within the court system there is access to certification exams in 18 different languages through the National Center for State Courts. Each year training is provided for the exams. Individuals can test in each of those languages and become certified. There are languages where no certification exams exist, but the courts belong to a consortium that enables them to draw on interpreter resources.

Alan Wilding, President, Idaho Association of the Deaf, shared his personal story. He had been a teacher for 16 years and holds 4 degrees. He was arrested and charged with felony theft. He did not know why he was arrested and has always maintained his innocence. Because he did not receive the appropriate services and was assigned a non-certified, non-licensed sign language interpreter, there were many miscommunications involved with the court hearings. He thought he was entering a plea deal for a misdemeanor, when in fact, he was charged with a felony. The judge would not allow him to change his plea. He is prohibited from teaching because he has been convicted of a felony. He said this was only one of many stories of injustice.

Representative Packer said people cannot be taught to hear. Certification and licensure is the only available avenue. She stated what the deaf are experiencing has been minimized. Legislation is needed to make sure people have access to services.

MOTION: **Senator Ward-Engelking** moved to send **H 152** to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion.

Senator Heider said he was in favor of the bill, but he did not know how the bill would be implemented for all and said this was a concern. **Senator Schmidt** said he found comfort with the timeline being moved to July 1, 2016, so the rules can be worked out with the courts. **Vice Chairman Patrick** said he would be more comfortable with a little different language, and the bill was not broad enough for exemptions.

ROLL CALL VOTE: **Chairman Tippetts** called for a roll call vote. **Senators Martin, Heider, Lee, Schmidt** and **Ward-Engelking** voted aye. **Senator Lakey, Vice Chairman Patrick** and **Chairman Tippetts** voted nay. Senator Cameron was absent. The motion carried. Senator Ward-Engelking will carry the bill on the floor.

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 3:05 p.m.

Senator Tippetts
Chair

Linda Kambeitz
Secretary