MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 18, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Foreman, Vice Chairman Lenney, Senators Guthrie, Nichols, Bernt, Zito, Ward-Engelking, and Ruchti

ABSENT/ EXCUSED: Senator Lakey

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 Foreman** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

INTRODUCTION: **Introduction of New Page Declan Nash**. **Chairman Foreman** welcomed Mr. Nash and asked him to tell the Committee about himself. **Mr. Nash** shared that his mother was a Page several years ago when Pro-Tempore Anthon was also a Page. He noted he played the piano for the past 11 years and also learned to play the drums three years ago. He belonged to a theatre co-op that performed plays.

Senator Ruchti asked Mr. Nash what he wanted to do after graduation. **Mr. Nash** stated he was taking accounting to see if he liked it since it involved math.

MINUTES APPROVAL: **Senator Zito** moved to approve the Minutes of February 11, 2025. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

NOTE: **Jani Revier, Director, Department of Labor (DOL)** gave a PowerPoint presentation about the DOL (Attachment 1) in order to give the Committee an overview of the DOL prior to the bills being heard.

H 53 **EMPLOYMENT SECURITY - Amends and adds to existing law to provide for the prevention and deterrence of unemployment insurance fraud**. **Jani Revier**, Director, Department of Labor (DOL), noted this legislation updated the statute applied to claimants who committed unemployment insurance fraud.

Ms. Revier noted fraud overpayment occurred when a claimant knowingly provided false information, omitted details, or intentionally withheld information in order to receive unemployment benefits for which they were not entitled. In addition to repaying the overpayment, the claimant must also repay a penalty and interest as part of the fraud penalty. Non-fraud overpayment happened when a claimant received benefits they were not eligible for, but the error was not intentional. The claimant was not at fault for providing false information or withholding anything, so they only needed to repay the overpayment without the added penalties and interest associated with fraud.

She explained that when the DOL found someone had received benefits they were not entitled to, an overpayment was created. There were two types of unemployment insurance overpayments: fraud and non-fraud. A fraud overpayment occurred when a claimant made a false statement, gave incorrect information, or withheld information to receive benefits. A non-fraud overpayment occurred when a claimant received benefits they were not eligible to receive, but the DOL found the claimant was not at fault or they did not intentionally give false information or withhold information to receive benefits. All overpayments must be repaid but someone committing fraud must also repay a penalty and interest.

Ms. Revier noted Idaho's current fraud statute was passed 20 years ago. After the pandemic, she asked staff to examine the statute to determine if an update was needed to ensure a consistent and equitable approach to fraud. This bill was a result of that effort. **Ms. Revier** explained the bill proposed four main things:

- First - Page 1, line 21, "knowingly" was defined. This change moved the definition currently on Page 3, lines 43-44 and moved it to its own section. Page 1, line 27, "willful" was defined. This definition was based upon Idaho Supreme Court cases and mirrored the way that definition was applied by the DOL and the Idaho Industrial Commission (IIC). The changes on Page 2 and beyond incorporated "willfully" and "knowingly" into the statute.
- Second - The updated legislation introduced stricter consequences for individuals who repeatedly committed unemployment insurance fraud, reinforcing the seriousness of such offenses. A stiffer administrative consequence was provided for repeat offenders of unemployment insurance fraud. Under current law, a fraud determination resulted in a one-year disqualification each time fraud was committed. Current law also imposed a penalty of 25 percent of the overpayment for the first fraud, a second fraud was 50 percent, and a third fraud was a 100 percent penalty. Claimants must repay the overpayment, penalties, and interest, and wait the disqualification period before being eligible to receive benefits again.

Ms. Revier highlighted that while the penalty was an effective deterrent, there were individuals within the system who had committed multiple instances of fraud. She pointed out that the DOL was proposing a change in the penalty structure, specifically on Page 8, line 34, to increase the disqualification period for individuals with multiple frauds. Instead of a one-year disqualification for subsequent frauds, the new proposal suggested disqualifying individuals for one year for the first fraud, two years for a second fraud, and three years for a third fraud. This change was expected to save the Unemployment Insurance Trust Fund (UITF) $152,000 in the first year, as fewer benefits would be paid to claimants who had committed multiple frauds. However, the anticipated savings decreased to $112,000 in the following years, as previously denied claimants would remain ineligible for benefits.

- Third - This change created a distinction between misdemeanor and felony fraud. Current law treated all Unemployment Insurance (UI) fraud as a felony, but some UI fraud did not rise to the level of a felony.

Ms. Revier explained that on Page 14, line 11, a misdemeanor offense was created for fraud less than $1,000.

- Fourth - Page 15 created a crime for unemployment insurance identity theft.

Ms. Revier explained that during the pandemic, UI programs in every state were targeted by crime rings trying to exploit stolen identities to claim benefits. She expressed pride in the Department of Labor's (DOL) efforts to combat this fraud. Notably, the Department of Justice's Covid-19 Fraud Enforcement Task Force (CFETF) recognized Idaho as one of only two states that excelled in preventing and detecting fraud throughout the pandemic. She was proud of the DOL's efforts to combat unemployment insurance fraud.

Ms. Revier noted the bill defined identity theft and made it a criminal offense to use a stolen identity to apply for unemployment insurance (UI) benefits. Additionally, the bill provided for restitution of $1,000 to be paid to the victim by the person committing the crime. The U.S. Department of Labor had urged states to minimize the negative consequences for victims of UI identity fraud, and this provision was designed to address that concern. It was hoped that this measure would serve as a deterrent to such crimes and provide prosecutors with more tools to handle these cases if they occurred.

This legislation had no impact on the General Fund. The savings to the UITF was due to a more significant denial period, resulting in claimants becoming ineligible for benefits in future years.

MOTION: **Senator Guthrie** moved to send **H 53** to the floor with a **do pass** recommendation. **Senator Nichols** seconded the motion. The motion carried by **voice vote**.

H 54 **LABOR - Amends and adds to existing law to revise provisions regarding employment security laws and to provide for certain administrative rules to be null, void, and of no force and effect**. **Jani Revier**, Director, Department of Labor (DOL), remarked this legislation moved significant parts of rule into statute. She reported this bill was in response to legislation passed during the 2024 Legislative Session. H 626 changed how courts interpreted laws or rules by removing the deference to agency's interpretation.

Ms. Revier reported the DOL rarely changed their rules, but the rules did contain key components of the UI program. For example, a person must be able and available to work in order to receive UI benefits. Those definitions were currently in rule, but not statute. The intent of **H 54** was to ensure the UI program continued to operate as currently structured.

Ms. Revier stated if the legislation passed, approximately 65 percent of the rules would be eliminated. The statute would become clearer about when someone qualified for benefits, how businesses were taxed, and the process for appealing determinations. She explained that the remaining rules would be more procedural in nature, providing guidance for the agency to implement the law. The Department of Insurance (DOI) was tasked with administering Title 72, Chapter 13 of the Employment Security Law and Title 45, Chapter 6, Claims for Wages. The bill created six new sections of the Employment Security Law and amended 24 other sections. These new sections were designed to improve readability and prevent the existing sections from becoming overly lengthy. Additionally, the bill amended one section of Claims for Wages.

The UI program was a federal-state partnership. While states had some discretion on some aspects of the UI Program, they must adhere to the Social Security Act, and the Federal Unemployment Tax Act (FUTA). These federal laws outlined the minimum standards that all states met when designing their UI programs, ensuring consistency and uniformity across the country while allowing states some flexibility in administration.

Ms. Revier pointed out that conformity with the federal requirements of the UI Program was important as it saved Idaho businesses hundreds of dollars per employee annually. The current program met federal conformity requirements, and this legislation ensured that the DOL continued to do so. There was no fiscal impact to the General Fund or any dedicated fund or federal fund since there were no changes to the program.

DISCUSSION: **Senator Nichols** queried what percentage of the rules were eliminated by this bill. **Ms. Revier** explained that 65 percent of the rules were eliminated and another 10 percent were eliminated this session.

MOTION: **Senator Guthrie** moved to send **H 54** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Foreman** adjourned the meeting at 2:00 p.m.

Senator Foreman
Chair

Linda Kambeitz
Secretary