

**MINUTES OF THE
BUSINESS AND LABOR INTERIM COMMITTEE**

Wednesday, November 19, 2008 – 2:15 p.m. – Room W025 House Building

Members Present:

Sen. Kevin T. VanTassell, Senate Chair
Sen. Gene Davis
Sen. John W. Hickman
Sen. Karen Mayne
Sen. Wayne L. Niederhauser
Rep. Jackie Biskupski
Rep. Carl W. Duckworth
Rep. James A. Dunnigan
Rep. Ben C. Ferry
Rep. Todd E. Kiser
Rep. Brian P. Monsen
Rep. Karen W. Morgan
Rep. Paul A. Neuenschwander
Rep. Gordon E. Snow

Members Absent:

Rep. Stephen D. Clark, House Chair
Sen. Dan R. Eastman
Rep. David Clark
Rep. Kevin S. Garn
Rep. Patrick Painter

Staff Present:

Ms. Allison M. Nicholson, Policy Analyst
Ms. Patricia Owen, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair VanTassell called the meeting to order at 2:30 p.m. He excused Rep. S. Clark and Rep. Garn from the meeting.

MOTION: Rep. Dunnigan moved to approve the minutes of the October 15, 2008 meeting. The motion passed unanimously with Sen. Davis absent for the vote.

2. Required Reports

A. Workers' Compensation Study - Firefighters & Law Enforcement Officers

Dr. Kurt Hegmann, Director, Rocky Mountain Center for Occupational and Environmental Health, discussed "Final Report: Police Officer and Firefighter Health Study," which was included in the mailing packet. He also distributed and discussed "Police Officer and Firefighter Health Study."

B. Independent Contractor Database

Ms. Francine Giani, Director, Department of Commerce, reported on the status of the independent contractor database.

C. Pawnshop and Secondhand Merchandise Advisory Board

This report, "Memo Regarding Report Required by Utah Code Ann. Section 13-32a-102.5(4)," was included in the mailing packet.

D. Immigration Interim Committee

The co-chairs of the Immigration Interim Committee submitted a written report, "Report to the Business and Labor Interim Committee," which was distributed to the Committee.

E. Health System Reform Task Force

The co-chairs of the Health System Reform Task Force submitted a written report, "Health System Reform Task Force Update," which was distributed to the Committee.

3. Draft Legislation: Utah Injured Worker Reemployment Act

Mr. Larry Bunkall, Director, Industrial Accidents Division, Utah Labor Commission, discussed 2009 General Session draft legislation, "Utah Injured Worker Reemployment Act," which was included in the mailing packet, and a written amendment to the draft legislation was distributed to the Committee.

MOTION: Rep. Kiser moved to adopt the amendment to 2009 General Session draft legislation, "Utah Injured Worker Reemployment Act," as follows:

- page 15, line 458: delete "z"
- page 15, line 459: delete "(i)"
- page 15, line 460: delete "\$5,000" and insert "\$500" and delete "z" and insert "z"
- page 15-16, lines 461-466 delete lines 461-466.

The motion passed unanimously with Sen. Davis absent for the vote.

MOTION: Sen. Hickman moved to amend 2009 General Session draft legislation, "Utah Injured Worker Reemployment Act," as previously amended, by removing "may" and inserting "shall" on line 458 and deleting "up to" on line 460.

Rep. Kiser requested that the motion be divided.

The motion to amend 2009 General Session draft legislation, "Utah Injured Worker Reemployment Act," by removing "may" and inserting "shall" on line 458 passed unanimously with Sen. Davis absent for the vote.

The motion to amend 2009 General Session draft legislation, "Utah Injured Worker Reemployment Act," by deleting "up to" on line 460 failed with Sen. Hickman, Sen. Mayne, Sen. VanTassell, Rep. Biskupski, Rep. Duckworth, Rep. Dunnigan, Rep. Kiser, and Rep. Monsen voting in favor and Sen. Davis absent for the vote.

MOTION: Rep. Kiser moved to adopt 2009 General Session draft legislation, "Utah Injured Worker Reemployment Act," as amended as a committee bill. The motion passed unanimously with Sen. Davis absent for the vote.

4. Draft Legislation: Utah Uniform Securities Act Amendments

Mr. Keith Woodwell, Director, Division of Securities, discussed 2009 General Session draft legislation, "Utah Uniform Securities Act Amendments," which was included in the mailing packet. He also discussed an amendment to the draft legislation.

Rep. Bird distributed and discussed 2009 General Session draft legislation, "Utah Uniform Securities Act - Securities Commission," which was an updated version from the version included in the mailing packet.

MOTION: Sen. Niederhauser moved that the sponsors of 2009 General Session draft legislation, "Utah Uniform Securities Act Amendments," and 2009 General Session draft legislation, "Utah Uniform

Securities Act - Securities Commission," work to combine their drafts into one piece of legislation and that the Committee take no action at this time. The motion passed unanimously with Sen. Davis, Sen. Hickman, Rep. Biskupski, and Rep. Snow absent for the vote.

5. Draft Legislation: Utah Uniform Securities Act - Securities Commission

This item was discussed in conjunction with Agenda Item #4.

6. Draft Legislation: Enforcement of Truth in Advertising Act

Sen. Margaret Dayton introduced 2009 General Session draft legislation, "Enhancement of Truth in Advertising Act," which was included in the mailing packet.

Mr. Kevin Olsen, Director, Division of Consumer Protection, further discussed the draft legislation.

Mr. Jim Olsen, President, Utah Retail Merchants Association and Utah Food Industry, voiced concerns with the draft legislation.

MOTION: Sen. Hickman moved to adopt 2009 General Session draft legislation, "Enhancement of Truth in Advertising Act," as a committee bill.

SUBSTITUTE MOTION: Rep. Ferry moved to adopt 2009 General Session draft legislation, "Enhancement of Truth in Advertising Act," as a committee bill and to recommend to the Senate Rules Committee that the legislation be sent to a standing committee during the 2009 General Session. The motion passed with Sen. Hickman and Sen. Niederhauser voting in opposition and Rep. Biskupski, Rep. Duckworth, and Rep. Snow absent for the vote.

7. Draft Legislation: Insurance Code Amendments

Rep. Dunnigan discussed a written amendment to 2009 General Session draft legislation, "Insurance Code Amendments," which was distributed to the Committee.

MOTION: Rep. Dunnigan moved to adopt the amendment to 2009 General Session draft legislation, "Insurance Code Amendments," as follows:

page 1, lines 25-26:	delete lines 25-26
page 43, line 1323:	after "(2)(a)" insert "(i)"
page 43, line 1324:	delete " <u>For a corporation</u> "
page 43, lines 1325-1326:	delete lines 1325-1326 and insert: " <u>(ii) A corporation's entire board constitutes the audit committee if the corporation:</u> <u>(A) is described under Subsection 31A-5-407(4); and</u> <u>(B) does not have an audit committee that complies with this Subsection (2).</u> "
page 71, lines 2185-2199:	delete lines 2185-2199
page 71, line 2200:	reinstate "(3)" and delete "(4)".

The motion passed unanimously with Sen. Davis, Rep. Biskupski, Rep. Duckworth, Rep. Ferry, and Rep. Snow absent for the vote.

Rep. Dunnigan discussed 2009 General Session draft legislation, "Insurance Code Amendments," which was included in the mailing packet.

Mr. John "Mickey" Braun, Assistant Commissioner, Utah Department of Insurance, clarified several sections of the draft legislation.

MOTION: Rep. Dunnigan moved to adopt 2009 General Session draft legislation, "Insurance Code Amendments," as amended, as a committee bill. The motion passed unanimously with Rep. Biskupski, Rep. Duckworth, Rep. Morgan, and Rep. Snow absent for the vote.

8. Draft Legislation: Exemption for Alcoholic Beverage Manufacturing License

Rep. Christine Johnson distributed and discussed 2009 General Session draft legislation, "Exemption for Alcoholic Beverage Manufacturing License," which was an updated version from the version included in the mailing packet.

Mr. Mark Alston, owner, the Beer Nut and the Bayou, spoke in support of the draft legislation.

MOTION: Sen. Davis moved to adopt 2009 General Session draft legislation, "Exemption for Alcoholic Beverage Manufacturing License," as a committee bill. The motion passed with Sen. Niederhauser voting in opposition and Rep. Duckworth, Rep. Dunnigan, and Rep. Snow absent for the vote.

9. Draft Legislation: Workers' Compensation Premium Assessment and Workplace Safety Funding

Sen. Mayne discussed a written amendment to 2009 General Session draft legislation, "Workers' Compensation Premium Assessment and Workplace Safety Funding," which was distributed to the Committee.

MOTION: Sen. Mayne moved to amend 2009 General Session draft legislation, "Workers' Compensation Premium Assessment and Workplace Safety Funding," as follows:

page 1, line 28: delete "None" and insert "This bill provides an immediate effective date."

page 4, line 110: after "(2)" insert "(a)"

page 4, line 113: after line 113 insert:
"(b) Beginning with fiscal year 2008-2009, if the balance in the Workplace Safety Account exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1)."

page 5, lines 142-144: delete lines 142-144 and insert:
":
(i) to:
(A) the governor;
(B) the Legislature;
(C) the commission; and
(D) the state workers' compensation advisory council created under Section 34A-2-107; and
(ii) regarding:
(A) the use of the monies appropriated under Subsection (3)(b); and
(B) the impact of the use of the monies on the safety of Utah's

page 5, line 154:	<u>workplaces.</u> "
page 6, line 185:	delete " <u>12%</u> " and insert " <u>20%</u> "
page 8, line 241:	delete line 185 and insert " <u>Subsection 34A-2-701(5)(b)(ii)(B).</u> "
page 9, line 253:	delete " <u>7%</u> " and insert " <u>5.75%</u> "
page 11, line 329:	delete " <u>6.25%</u> " and insert " <u>5%</u> "
	after line 329 insert:
	Section 6. Effective date.
	<u>"If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of the Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override."</u>

The motion passed unanimously with Rep. Duckworth, Rep. Dunnigan, and Rep. Snow absent for the vote.

Sen. Mayne discussed 2009 General Session draft legislation, "Workers' Compensation Premium Assessment and Workplace Safety Funding," which was included in the mailing packet.

Mr. Dennis Lloyd, General Counsel, Workers' Compensation Fund, distributed and discussed "Workers' Compensation Premium Assessments and Workplace Safety Funding," and spoke in favor of the bill.

Mr. Tom Bingham, Utah Manufacturers Association and Workers' Compensation Advisory Council, voiced concerns with the legislation and said he believes it would be premature for the Committee to take action on the legislation at this time.

Mr. Bunkall discussed the draft legislation.

MOTION: Sen. Davis moved to adopt 2009 General Session draft legislation, "Workers' Compensation Premium Assessment and Workplace Safety Funding," as amended, as a committee bill. The motion passed unanimously with Rep. Duckworth, Rep. Dunnigan, and Rep. Snow absent for the vote.

10. Draft Legislation: Utah Residential Mortgage Practices and Licensing Act

Sen. Niederhauser discussed 2009 General Session draft legislation, "Utah Residential Mortgage Practices and Licensing Act," which was included in the mailing packet.

Mr. Mark Steinagel, Director, Division of Real Estate, answered questions and clarified sections of the draft legislation.

MOTION: Rep. Ferry moved to adopt 2009 General Session draft legislation, "Utah Residential Mortgage Practices and Licensing Act," as a committee bill. The motion passed unanimously with Sen. Davis, Rep. Duckworth, and Rep. Snow absent for the vote.

11. Draft Legislation: Life Settlement Amendments

Rep. Dunnigan discussed 2009 General Session draft legislation, "Life Settlement Amendments," which was included in the mailing packet.

Ms. Betsy Jerome, Utah Insurance Department, spoke in support of the draft legislation.

12. Subcontractor Payment Issues

Mr. Rob Jolley, representing Utah Subcontractors Council, discussed the ongoing issue of timely payments in the construction industry. He noted that the Utah Subcontractors Council is continuing discussions with other members of the industry to create a solution to the issue.

Mr. Rich Thorn, President and CEO, Associated General Contractors of Utah, said that the industry is continually working to address these issues, and that discussions are moving forward.

13. Draft Legislation: Amendments to Agency Rulemaking Regarding Criminal Penalties

Rep. Ferry discussed 2009 General Session draft legislation, "Amendments to Agency Rulemaking Regarding Criminal Penalties," which was included in the mailing packet, and "Amendments to Agency Rulemaking Regarding Criminal Penalties: Administrative Rules Review Committee."

14. Draft Legislation: Military Installation Development Agency Amendments

This item was not discussed.

15. Other Items / Adjourn

Chair VanTassell adjourned the meeting at 5:48 p.m.