

**MINUTES OF THE SENATE BUSINESS & LABOR
STANDING COMMITTEE
FRIDAY, FEBRUARY 20, 2004, 7:30 A.M.
ROOM 403, STATE CAPITOL BUILDING**

Members Present: Sen. Parley G. Hellewell, Chair
Sen. Curtis Bramble
Sen. Gene Davis
Sen. Dan Eastman
Sen. Thomas V. Hatch
Sen. Ed Mayne
Sen. Carlene M. Walker
Sen. Michael Waddoups

Staff Present: Mark Steinagel, Policy Analyst
Karen Allred, Committee Secretary

Public Speakers Present: Dexter Bell, Director, Utah Division of Real Estate
Alan Crooks, Broker, Utah Mortgage Loan Association
Ed Leary, Commissioner, Department of Financial Institutions
Tomi Ossana, Executive Director, HIP Utah
Representative Chad Bennion
Merwin Stewart, Insurance Commissioner
Laura Polacheck, Associate State Director, AARP Utah
Neal Gooch, Deputy Insurance Commissioner
Brent Scott, President, Health Insurance of Utah
Representative Jim Dunnigan
Jennifer Cannaday, attorney, Utah Health Insurance Association

A list of visitors and a copy of handouts are filed with the committee minutes.

Committee Chair Hellewell called the meeting to order at 7:30 a.m.

MOTION: Sen. Bramble moved to approve the minutes of February 12, 16, and 18, 2004.

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

1. H.B. 245 Insurance Law Revisions (J. Ferrin)

Sen. Hatch presented the bill.

MOTION: Sen. Hatch moved to adopt **1st Sub. S.B. 245 Insurance Law Revisions.**

The motion passed unanimously with Sens. Waddoups, Walker, Davis and Mayne absent for the vote.

MOTION: Sen. Hatch moved to pass the bill out favorably.

The motion passed unanimously with Sens. Waddoups, Davis and Mayne absent for the vote.

2. **1st Sub. S.B. 53 County and Municipal Zoning Regarding Billboards** (M. Waddoups)

Sen. Eastman presented the bill.

MOTION: Sen. Eastman moved to pass the bill out favorably.

The motion passed unanimously with Sens. Waddoups, Davis and Mayne absent for the vote.

3. **1st Sub. S.B. 178 Mortgage Broker Amendments** (M. Waddoups)

Sen. Waddoups explained the bill.

Dexter, Dir., Utah Div. of Real Estate, further explained the bill.

MOTION: Sen. Waddoups moved to adopt the following amendments:

1. *Page 7, Lines 192 through 196:*

192 (d) ~~[(**†**)]~~ visit and investigate an entity licensed under this chapter, regardless
 of whether
193 the entity is located in Utah; and
194 ~~[[**(ii)** assess investigation fees established under Section 63-38-3.2 to a licensee~~
 for the
195 reasonable costs, including reasonable travel costs, incurred by the division in
 conducting a
196 records inspection;]]

2. *Page 10, Line 282:*

282 (A) except as provided in Subsection 61-2c-206(2)(c) **and Subsection 61-2c-**
 202(4)(a)(i)(C) , the appropriate number of hours

3. *Page 17, Line 495:*

495 (5) (a) On or after January 1, ~~[[2005]]~~ 2006, a license issued under this chapter to an individual

4. *Page 17, Line 514:*

514 (8) On or after January 1, ~~[[2005]]~~ 2006, except as provided under Title 16, Chapter 11,

5. *Page 17, Line 519:*

519 (9) On or after January 1, ~~[[2005]]~~ 2006, a mortgage officer shall conduct all business of

6. *Page 18, Line 537:*

537 (b) On or after January 1, ~~[[2005]]~~ 2006, a mortgage officer whose license has been placed in

7. *Page 18, Line 543:*

543 (12) (a) On or after May 3, 2004 and before January 1, ~~[[2005]]~~ 2006, if a licensed entity

8. *Page 18, Line 548:*

548 (b) On or after January 1, ~~[[2005]]~~ 2006, if a licensed entity terminates its principal lending

9. *Page 19, Line 560:*

560 (iii) on or after May 3, 2004 and before January 1, ~~[[2005]]~~ 2006, if the applicant is an entity[-];

10. *Page 19, Line 563:*

563 (iv) on or after January 1, ~~[[2005]]~~ 2006, if the applicant is an entity:

11. *Page 20, Line 599:*

599 of having successfully completed ~~[[the number of]]~~ 20 hours of approved prelicensing education

12. Page 22, Line 669:

669 (b) (i) before January 1, ~~[[2005]]~~ 2006, a control person who fails to meet
the requirements of

13. Page 22, Line 671:

671 (ii) on or after January 1, ~~[[2005]]~~ 2006, a principal lending manager who
fails to meet the

14. Page 24, Line 709:

709 (iii) (A) on or after May 3, 2004 and before January 1, ~~[[2005]]~~ 2006, the
control [persons]

15. Page 24, Line 711:

711 (B) on or after January 1, ~~[[2005]]~~ 2006, the principal lending manager of
the entity; or

16. Page 25, Lines 762 through 769:

762 ~~[[(-1) On or after January 1, 2005 and before January 1, 2006, to qualify as a
principal
763 lending manager under this chapter, an individual shall, in addition to meeting the
standards in
764 Section 61-2c-203:
765 — (a) submit an application on a form approved by the division;
766 — (b) pay fees determined by the division under Section 63-38-3.2; and
767 — (c) if the individual is not licensed under this chapter at the time of application,
submit
768 to the criminal background check required by Subsection 61-2c-202(4).]]~~
769 ~~[[(-2)]]~~ (1) Except as provided in Subsection (3), on or after ~~[[January 1,
2006]]~~ September 1, 2005, to qualify as a

17. Page 26, Line 774:

774 (c) submit proof of having successfully completed ~~[[80]]~~ 40 hours of
prelicensing education

18. Page 26, Line 782:

782 ~~[(3)]~~ (2) (a) Notwithstanding Subsection (2), an individual described in Subsection (3)(b)

19. Page 26, Line 800 through Page 27, Line 805:

800 ~~[(4) On or after January 1, 2006, the principal lending manager license of an individual~~
801 ~~who has not submitted proof to the division of successful completion of the~~
802 ~~education, and experience requirements of Subsection (2) shall be automatically~~
803 ~~inactivated~~
804 ~~by the division until the individual provides proof of having successfully completed~~
805 ~~the~~
806 ~~education, examination, and experience requirements of Subsection (2).]~~
807 ~~[(5)]~~ (3) A principal lending manager may not engage in the business of
808 residential

20. Page 27, Line 822:

822 ~~[(ii)]~~ (b) establishes that the individual's experience described in Subsection (2)(a) was

21. Page 27, Line 824:

824 ~~[(iii)]~~ (c) provides any other information required by the division by rule under Subsection

22. Page 28, Line 833:

833 (b) On or after January 1, ~~[(2005)]~~ 2006, if the license of a principal lending manager is

23. Page 28, Line 844:

844 (3) On or after January 1, ~~[(2005)]~~ 2006, in addition to the requirements of Subsection (2), a

24. Page 28, Line 848:

848 (4) (a) On or after May 3, 2004 and before January 1, ~~[[2005]]~~ 2006, in
addition to the

25. Page 28, Line 852:

852 (b) On or after January 1, ~~[[2005]]~~ 2006, in addition to the requirements of
Subsection (2), an

26. Page 30, Line 911:

911 (c) fail, within ~~[[30]]~~ 90 calendar days of a request from a borrower who
has paid for an

27. Page 30, Line 924:

924 (s) on or after January 1, ~~[[2005]]~~ 2006, in the case of the principal lending
manager of an entity

28. Page 37, Line 1126:

1126 (3) On or after January 1, ~~[[2005]]~~ 2006 ;

29. Page 37, Line 1136:

1136 (4) On or after January 1, ~~[[2005]]~~ 2006, a principal lending manager who
transacts the business

30. Page 43, Line 1308:

1308 (1) the amendments to Section 61-2c-106 take effect on January 1,
~~[[2005]]~~ 2006 ; and

The motion passed unanimously.

Alan Crooks, broker, Utah Mortgage Loan Association, spoke in support of the bill.

MOTION : Sen. Walker moved to pass the bill out favorably as amended.

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

4. 1st Sub. S.B. 176 Financial Institution Amendments (J. Valentine)

Sen. Valentine explained the bill.

Ed. Leary, Commissioner, Department of Financial Institutions, spoke in support of the bill.

MOTION: Sen. Eastman moved to pass the bill out favorably.

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

5. **S.B. 164 Amendments to the Utah Comprehensive Health Insurance Pool** (*G. Davis*)

MOTION: Sen. Davis moved to adopt **1st Sub. S.B. 164**.

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

Tomi Ossana, Exec. Dir., HIP Utah, further explained the bill.

Representative Chad Bennion spoke in opposition to the bill.

Merwin Stewart, Insurance Commissioner, spoke to the bill.

MOTION: Sen. Eastman moved to pass the bill out favorably.

The bill passed with Sens. Eastman, Hatch, Davis and Mayne voting in favor, Sens. Hellewell, Waddoups and Walker voting in opposition and Sen. Bramble absent for the vote.

6. **1st Sub. S.B. 195 Consumer Protection Amendments** (*S. Allen*)

Rep. Allen explained the bill.

Laura Polacheck, Associate State Director, AARP, spoke in support of the bill.

MOTION: Sen. Walker moved to pass the bill out favorably.

The motion passed unanimously with Sens. Bramble and Davis absent for the vote.

MOTION: Sen. Hatch moved that the bill be placed on the Consent Calendar.

The motion passed unanimously with Sens. Bramble and Davis absent for the vote.

7. **H.B. 171 Insurance Fraud Amendments** (*J. Ferrin*)

Sen. Killpack presented the bill.

MOTION: Sen. Hatch moved to adopt the following amendments:

1. *Page 8, Line 233 through Page 9, Line 245*
House Committee Amendments
2-4-2004:

233 **31A-31-110. Mandatory reporting of fraudulent title insurance acts -- Failure**
to
234 **report -- Criminal penalties.**
235 (1) ~~[[A]]~~ **An auditor that is employed by a** ~~H~~ **[person] TITLE INSURER**
~~h~~ ~~[[having]]~~ **and that has** knowledge ~~H~~ **[or a reasonable belief]** ~~h~~ that a
235a fraudulent insurance act is
236 being, will be, or has been committed related to title insurance shall report the fraudulent
act to
237 the commissioner in a writing that provides information in detail relating to:
238 (a) the fraudulent insurance act; and
239 (b) the perpetrator of the fraudulent insurance act.
240 (2) (a) Any ~~H~~ **[person]** ~~[[TITLE INSURER]]~~ ~~h~~ **auditor** required to report
a fraudulent insurance act under
240a Subsection (1)
241 who willfully fails to comply with Subsection (1) is guilty of a class B misdemeanor.
242 (b) An action for failure to comply with Subsection (1) shall be commenced within
243 four years from the date on which the ~~H~~ **[person]** auditor employed by the ~~TITLE~~
~~INSURER~~ ~~h~~ **:**
244 (i) had knowledge of the fraudulent insurance act; and
245 (ii) willfully failed to report the fraudulent insurance act.

2. *Page 9, Lines 248 through 269:*

248 (1) A person commits a fraudulent insurance act if that person with intent to
defraud:

**** Some lines not shown ****

264 (e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102,
for
265 the purpose of committing a fraudulent insurance act;

- 266 (f) knowingly assists, abets, solicits, or conspires with another to commit a
fraudulent insurance
267 act; or
268 (g) knowingly supplies false or fraudulent material information in any document or
269 statement required by the Department of Insurance.

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

MOTION: Sen. Hatch moved to pass the bill out favorably as amended.

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

8. H.B. 172 Insurance Liquidation Law Amendments (J. Ferrin)

Sen. Killpack presented the bill.

Neal Gooch, Deputy Insurance Commissioner, spoke in support of the bill.

MOTION: Sen. Hatch moved to pass the bill out favorably.

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

9. H.B. 94 Health Insurance Pool (C. Bennion)

MOTION: Sen. Walker moved to adopt the following amendments:

1. Page 6, Lines 152 through 173:

- 152 ~~16~~ **16** (a) **In adopting a budget each year for the Utah Comprehensive**
Health Insurance
153 **Pool, the Legislature shall determine an amount that is sufficient to fund the pool**
for each
154 **fiscal year.**
155 (b) **When making a determination under Subsection (16)(a), the Legislature**
shall
156 **consider factors it determines are appropriate, which may include:**

- 157 (i) actuarial analysis of growth or decline in enrollment projected over a period
158 of at
159 least three years;
160 (ii) actuarial analysis of the medical and pharmacy claims costs projected over
161 a period
162 of at least three years;
163 (iii) the annual Medical Care Consumer Price Index;
164 (iv) the annual base budget for the pool established by the Joint Tax and
165 Revenue
166 Appropriations Subcommittee for each fiscal year;
167 (v) the growth or decline in insurance premium taxes and fees collected by the
168 tax
169 commission and the insurance department from the previous fiscal year; and
170 (vi) the availability of surplus General Fund revenue under Section 63-38-2.5
171 and
172 Subsection 59-14-204(5)(b).
173 (c) The funds appropriated by the Legislature to fund the Utah Comprehensive
174 Health
175 Insurance Pool as determined under this Subsection (16) ~~[(c)]~~ (a) :
176 (i) shall be deposited into the enterprise fund established by Section
177 31A-29-120; and
178 (ii) are restricted and are to be used to maintain the operation, administration,
179 and
180 management of the Utah Comprehensive Health Insurance Pool created by Section
181 31A-29-104 .
182 (17) In considering the factors in Subsections (14)(b)(i), (ii) and (iii), and
183 Subsections (16)(b)(i), (ii) and (iii), the governor and the Legislature may consider
184 the actuarial data and projections prepared for the board of the Utah
185 Comprehensive Health Insurance Pool as it develops its financial statements and
186 projections for each fiscal year . ~~[(17)]~~

The motion passed unanimously with Sens. Eastman and Waddoups absent for the vote.

MOTION: Sen. Davis moved to amend the bill as follows:

1. Page 5, Lines 142 through 143:

142 (iv) the annual base budget for the pool established by the ~~[[Joint~~
~~Tax]]~~ Commerce and Revenue
143 Appropriations Subcommittee for each fiscal year;

2. Page 6, Lines 162 through 163

a. House Floor Amendments

b. 2-10-2004:

162 ~~[[+]]~~ (iv) the annual base budget for the pool established by the ~~[[Joint~~
~~Tax]]~~ Commerce and Revenue
163 Appropriations Subcommittee for each fiscal year; ~~[[+]]~~

The motion passed unanimously with Sens. Eastman and Waddoups absent for the vote.

Brent Scott, President, Health Insurance of Utah, and Merwin Stewart, Insurance Commissioner, spoke in support of the bill.

MOTION: Sen. Bramble moved to pass the bill out favorably as amended.

MOTION: Sen. Bramble moved that **S.B. 164** and **H.B. 94** be reported out and heard together on the Senate Floor.

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

10. H.B. 218 Private Health Insurance - Waiver of Health Condition (C. Bennion)

Rep. Bennion presented the bill.

MOTION: Sen. Hatch moved to amend the bill as follows:

1. Page 3, Line 84

House Committee Amendments

2-2-2004:

84 (C) ~~[[cleft lip, cleft palate,]~~ WHEN EXISTING AT TIME OF
APPLICATION-]] , h deviated nasal

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

Rep. Jim Dunnigan and Jennifer Cannady, attorney, Utah Health Insurance Association, spoke in support of the bill.

MOTION: Sen. Walker moved to pass the bill out favorably as amended.

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

MOTION: Sen. Hatch moved to adjourn.

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

Chair Hellewell adjourned the meeting at 9:30 a.m.

Sen. Parley G. Hellewell, Chair