

**INSURANCE NOMINATING COMMITTEE**  
**MEETING**  
**MONDAY, JUNE 4, 2018**  
**10:30 A.M.**  
State Capitol Building, Room 321  
409 Old Santa Fe Trail, Santa Fe, New Mexico

**1. CALL TO ORDER - Chairman R. E. Thompson**

A regular meeting of the Insurance Nominating Committee was called to order on the above date at approximately 10:30 a.m. by Chairman Thompson at the State Capitol Building, Room 321, Santa Fe, New Mexico.

Introductions indicated the presence of a quorum as follows:

**Members Present**

R. E. Thompson, Chairman  
Michael Hawkes [telephonically]  
Bill Kinyon  
Angela Romero  
Scott Yurcic

**Members Absent**

Lisa Farrell Luján  
Thomas Taylor Vice-Chairman  
Zach Cook  
Tim Jennings

**Staff Present**

John G. Franchini, Superintendent of Insurance  
Melissa Martínez, General Counsel's Office  
Vicente Vargas, General Counsel  
Tricia Warwick, Office of the Superintendent  
Heather Woodward, OSI Staff [telephonically]  
Robert Doucette, Deputy Superintendent  
Mark Torres, OSI Staff  
Roberta Baca, Criminal Division Director

**Others Present**

Gideon Elliott, A.G. Office  
Dan Najjar, Attorney

**A. Introduction of Committee Members and Staff**

Members of the OSI Staff introduced themselves.

**B. Approval of the Agenda**

Chairman Thompson added the addition of the salary of the superintendent of insurance.

The agenda was approved by consensus of the Board.

**C. Approval of Minutes - January 5, 2018**

Superintendent Franchini noted the following corrections to the minutes:

Page 2, second paragraph: "with the help of *LSD*, should be with the help of LFC."

Page 2, regarding the history was clarified: "*the result showed OSI owed 7 companies more money, 2 companies they did not owe, and the remaining companies owe OSI money*" should start with: *OSI examined the 30 largest companies and the result showed...*

The second to last line: "*but it was honest, and the department had only missed about \$50 million in the past 5 years*" should be correctly stated as ...the department had only missed about \$50 million in the past 15 years. Also it should be noted that *half of the \$50 million was for 2000 and 2004 and basically have only missed \$25 million in the last ten years.*

On the next line: "*We are now collecting about \$315 to \$320 million...*" – was clarified that is the total revenue collected and it is important to note that in 2013 they collected \$141 million in premium taxes and in 2017 collected \$257million in premium taxes.

Chairman Thompson asked Ms. Martinez to prepare a page of the corrections to attach to the minutes.

**Member Yurcic moved to approve the Minutes of January 5, 2018 as amended. Member Romero seconded the motion, which passed by unanimous voice vote.**

**2. SUPERINTENDENT'S UPDATE – Superintendent Franchini**

A copy of the PowerPoint presentation was passed out.

**A. Affordable Care Act and Current Health Care**

Superintendent Franchini thanked the Committee for being present and participating and helping them follow the rules and do things correctly.

He would talk about the Affordable Care Act and current health care, the Premium Tax Audit update and the new NCII classifications.

The state of healthcare in New Mexico is not perfect but better than other states. The deadlines for rate filing for individuals and small group plans is on June 10<sup>th</sup> for initial submissions and they will review with their actuaries.

The rates could then be refiled on June 20 to allow more competition in health insurance. This tool helps bring transparency to the public and allows companies to see each other's work and rate plans and come back to give their final rates on July 20 and then they would approve those rates by August 20, 2018.

The Urban Institute projections reflect New Mexico's tie for third lowest rate increase due to the individual mandate repeal and short-term release. Last year there was a 20% rate increase in anticipation of the Trump Administration changes and the lack of alternatives to the changes.

OSI planned to protect the public in 2019. The benchmark premium in New Mexico was \$5,316 and the projected increase was about 9% and the third lowest in the country. Their average rate for a 40-year-old in the Silver Plan will be about \$5,799 next year, or \$484 above last year's premium for the year.

Superintendent Franchini reviewed the premiums in surrounding states:

- Arizona is \$6625 - \$1300 higher and a 20.6% rate increase at a cost of almost \$8000.
- Colorado at \$6035 - will go to \$7100.
- Oklahoma is \$8462 to go to \$10,000 – 18% rate increase.
- Texas at \$5573 will go to \$6698
- Utah at \$7000 going to \$8300
- Wyoming will go from \$11,000 to \$13,000.

Everyone is working together to keep the costs down. The 9% increase for New Mexico is just from the federal changes.

They will become more active about getting people into affordable healthcare and the Exchange will be a leader in healthcare.

The plan more outreach education through a rate review process and use the health plan comparison tool that helps the brokers place people in the right healthcare. He expects to add 10,000 people in healthcare this year by doing the comparison early and bringing it to seminars.

He also expects many who will qualify for Medicaid and they will assist them and provide benefit care preventative access.

They did a webinar/seminar series that had great feedback and attendance and that will be done again this year.

They will have an extensive media campaign with co-operation and money from the Exchange.

The seminar events will be across the state to try to inform the public they can buy healthcare reasonably and protect themselves.

Mr. Yurcic asked on the filing period, if there was a scenario and A, B, and C company filed a rate and B carrier figured out they were leaving money on the table and raised their rates on the 20<sup>th</sup>, would that be acceptable?

Superintendent Franchini responded that could happen but they have to prove it actuarially. Three years ago a company asked for a 41% rate increase and OSI saw only a 17% increase. The company dropped out of the Exchange and they lost about 30,000 customers and wanted to return the following year. They were allowed to come back

Mr. Yurcic asked if there will be more companies or fewer companies. He has heard that a company plans to "gobble up" another company.

Superintendent Franchini said he also heard that and it depends on how lawsuits are going with Medicaid contracts. If they are positive there will be an extra carrier, but they will have at least 3 carriers. The medical loss ratios for those carriers is over 350 percent for all four co-op carriers. They are very solid and one of four co-ops remaining in the United States.

Mr. Yurcic said it was mentioned that providers are being proactive to keep costs down. He asked what is being done to do that.

Superintendent Franchini explained providers are taking large cases and people who are sick, and they are now starting to manage their cases. They found they can save about 35% by getting people well quicker and people do not need to come back.

The pool has a new TPA and they have found by actively managing care they are saving \$.30 on the dollar and future costs have decreased. Also, they found if they take someone off of dialysis and give them a kidney transplant it will cost them \$60,000 but saves them by the fourth year \$100k because of the reduced amount of care needed.

That is a positive way to look at healthcare and the direction OSI is going.

Mr. Yurcic said everyone tells the bad stories and there are not enough of the good ones shared.

## **B. Premium Tax Audit Update**

Superintendent Franchini explained the target examination was on 30 selected companies and 13 companies owed additional premium taxes and over \$50 million were collected to date and will resolve over 98% of the underpayments due.

One company is outstanding and refused to pay and went to district court, but first statute they have to have a hearing with OSI and they are presenting the case the company must follow the statute. This will make their premium tax collection stronger.

Mr. Yurcic asked if there is a process to move this out of the OSI.

Superintendent Franchini explained they are moving forward and staff is very well-trained, and they have a process and written rules are in place on how to collect premium taxes for insurance for health, life and property. It is now documented and can be accessed on the website. They have found that has eliminated gray areas and the feedback received has only been positive feedback.

Staff is being trained to go over to TRD and will possibly start this in the fall and plan to fund out of the OSI budget TRD's initial costs for a year to ensure this works smoothly and Tax and Revenue is working with them.

Superintendent Franchini thought if OSI is setting the rules and regulations and overseeing that, then collecting the premium as well seems too much. Another party who collects premium taxes and money for the State should do that and it should be in one place. Only seven states do collection like New Mexico and they are catching up to the way others do collection. The appearance of impropriety is too great, and they do not want to put a gray area over the good work being done by OSI.

Chairman Thompson pointed out whatever the conclusion they reach administratively in the litigation of the one company going to court, it would not be a new de novo trial in district court, it will be OSI's decision that is rationally based.

Superintendent Franchini agreed it would be a public hearing and if the company does not like that, they are able to go back to district court. Every other company – 29 companies - have agreed with their process. He thought this company is fighting the premium tax because one nonprofit dental carrier gets a break on the tax.

### **C. NCCI Reclassification**

Superintendent Franchini reported he has found that NCCI has not updated classifications in certain industries in New Mexico like they have in other states. The reason is the state is profitable and had a 16% decrease in workers compensation last year and they are small.

There are basically 4 classifications in the oil and gas industry being used; Texas has 18, Oklahoma and Louisiana both have 50 and this is a business that goes across state lines. New Mexico needs the ability to be rewarded as other states for updating and increasing their technology. The NCCI uses rates that are 20-year technology or older for New Mexico and it is not fair to the State.

OSI will start with the Oil and Gas industry classifications but will look at the others as well. Advances in technology alone have been extreme and the four rates in New Mexico are completely obsolete; two are manual labor rates and hardly any of that is done now in Oil and Gas.

Superintendent Franchini indicated he visited the central headquarters for British Petroleum in Farmington last year and they monitor gas wells by computer. They had explained in the past they had to send out three trucks with seven people to make repairs because they did not know the exact problem, but now, with the current technology, could send one person. That saves them \$10,000 but they complained they are still charged at the heavy classification rate and should not be in that classification.

He added the Complaint Committee had a case outside of Jal for a contractor and NCCI was trying to use a \$14 rate. The company did a presentation showing their work would qualify in Texas at a \$5 rate, but New Mexico did not have that rate. With his approval the committee charged the \$5 rate and NCCI agreed with the exception.

They need to put the rates in and have the industry in the 21<sup>st</sup> century and that will be their first rule. Their first public meeting will be held in Hobbs on June 23 to discuss which classifications will be acceptable in New Mexico.

Mr. Kinyon asked if the issue could be resolved with NCCI at that meeting or if further action would be needed.

Superintendent Franchini replied they expect, after the hearing, that all of it will be solved. New Mexico deserves to have the same classifications as Texas and Oklahoma. NCCI is accepting of this and appreciates and respects the process and they will solve this together.

### 3. **LEGAL UPDATE, Vicente Vargas, General Counsel**

#### A. **Legislation**

Mr. Vargas thanked everyone for offering assistance in advocating for the legislation.

He provided an update on the 2018 legislative session results that impact OSI.

- **Own Risk Solvency Act**

They had discussed the need to pass legislation regarding Own Risk Solvency Act (ORSA) that was intended to have some key insurance carriers report on the risk relative to their operations in their business dealings.

The issue of the legislation was centered around the privacy of the report generated from carriers evaluating their risks. The legislation was introduced and deemed nongermane because it was not budget related, but they intend to bring the act up again in the 60-day session and advance it forward. They will also be talking to legislators in the interim about the legislation.

- **Financial Audit Bureau Transfer to Taxation and Revenue Department**

Mr. Vargas indicated this legislation was passed this year. And reviewed some of the highlights:

- The legislation essentially will not take effect until January 1, 2020 and, in the meantime, will get everything up and running with the new audit to make a smooth transfer over to TRD. They are working together and observing the process to identify issues. One issue is the funding needed by TRD to enable them to absorb responsibility in 2020. TRD will drive any legislative appropriation requests.

Mr. Yurcic questioned if the OSI budget would lose that funding.

Mr. Vargas thought it would only be the funding related to positions being transferred to TRD that would be lost.

Mr. Robert Doucette, Deputy Superintendent explained the FY20 budget is due September 3 and OSI will fund the position for half the year and TRD will pick up the other half of the year. They should be okay and plan to ask for funding for FY20 for three or four more FTEs (full-time employees) and their request will be even larger than when the positions go over. It will depend on the budget approved by the elected officials.

Mr. Yurcic asked where the department is currently short.

Deputy Superintendent Doucette replied Managed Healthcare has two workers and a manager and they hope to expand that to three more FTEs. They want to be able to tell people what they do and how they could help them and do a mass press release etc. The problem, if they do that before they get the ombudsman positions filled, would cause major issues. The positions will be in the FY20 budget.

The process is just starting, and they will be meeting with managers and with superintendents to ask their needs as they craft the budget in mid-August for 2020.

Mr. Vargas said there may be some tweaks needed as they move it forward.

Superintendent Franchini added that Andy Romero the Bureau Chief over that division has emphasized he is training people to function in TRD and for 6-8 months or so before being transferred to have a more seamless transition.

Ms. Romero asked to confirm that the special project would be moved temporarily to TRD.

Superintendent Franchini explained they are finalizing the project and getting computerized and will make sure the system is in place for the collection process. They want to hand it over to TRD with OSI employees for 6-8 months to make the process as seamless as possible.

- **New Mexico Auto Theft Prevention Authority (ATPA)**

Mr. Vargas said the last piece of legislation was HB 173, the Auto Theft Prevention Authority which impacts their Fraud Bureau in their operations in cooperation with law enforcement agencies across the state in order to leverage potential funding opportunities and lobby for some of the agencies. Legislation will be effective July 1, 2018.

Ms. Roberta Baca corrected the effective date stating the bill had an emergency clause and it was effective immediately upon the Governor's signature.

## **B. Litigation**

Mr. Vargas provided an overview of the litigation the OSI manages and deals with.

- An issue brought up earlier was the premium tax issue in district court. The intent is to get that from district court back to the OSI and avoid a de novo hearing, so the case is based on OSI's administrative process and ruling.
- A title Insurance case is brought against the Superintendent of Insurance to determine whether their interpretation of the Title Insurance law is correct. The case is waiting for the district court to determine whether to certify the case or not. The issue is whether there is enough competition for consumers if consumers have enough voice in how those rates are set.
- The Patient Compensation Fund (PCF) which is currently under the Medical Malpractice Act is being litigated and sets a ceiling on how much an injured party can receive as a result of injury. The current cap is \$600,000 not including punitive damages or future medical bills and is currently

for both doctors and hospitals. Doctors are objecting to OSI's interpretation that allows hospitals to be members of the PCF. The OSI approved hospitals in the fund and feels they have followed the statute.

- Air Ambulance charges to patients is a new case in federal court having to do with the balanced billing. Air ambulances who transported a patient currently work with the person's insurance to pay the bill. Many times the insurance does not pay the entire bill leaving a significant balance. The air ambulance companies then go after the patient for the remaining balance which can be in the tens of thousands of dollars.

OSI staff determined that the New Mexico Patient Protection Act by law protects patients from air ambulance companies seeking the balance from them and must be worked out between the insurance company and air ambulance company. There have been aggressive tactics by air ambulance companies seeking the balance of the bill and it is now in federal court.

Mr. Vargas reported that in the three cases mentioned, OSI used an outside law firm because in-house counsel lacked the depth of experience in that area. Two experienced litigators were brought in to handle the air ambulance cases and is a practice they hope to continue and still keep litigation in-house as much as possible.

Mr. Kinyon asked if the lawsuit of the air ambulances against OSI had been resolved.

Mr. Vargas said it is not and is in the early stages in federal court. He will continue to update them on the progress of the cases. The other cases are in the District Court.

Ms. Romero asked if he was able in the budget to continue to get term personnel transferred to permanent.

Mr. Vargas replied they did not obtain approval for the term to permanent in their budget but did discuss it with the Legislature and Executive. Instead of going through the general fund process, they identified another route with the Executive and the Legislature to make the term to permanent happen.

Unfortunately it is more administratively cumbersome as opposed to getting it in the budget and they are still in the process and hope to have a decision from the Executive within the next month.

Deputy Superintendent Doucette offered an update on the issue. There were six "term to perm" they wanted to do and sent the paperwork for the two attorneys because they seemed the most important. Those are currently at DFA.

They also put in a request for a UFE (Unrestricted Free Agent) Director full-time for the Patient Compensation Fund. Once the two Term to Perm attorneys are approved they will go forward with two more of the six positions that will support the OSI internally. The last two positions will then be reviewed to determine if they are still needed.

Ms. Romero asked if there were talking points for them.

Deputy Superintendent Doucette replied that everything is there – the amount of funding from the

operation budget, from the federal government, etc. and this is the deal they cut with OSI and they have met all of their requests.

Mr. Vargas offered to work on talking points if Ms. Romero received a phone call.

Deputy Superintendent Doucette explained if the two attorneys are not approved the budget has been cut so much on the contract side they could not hire outside attorneys for the jobs they need. The BAR authority they get is 5% of their total budget and he needs that 5% to pay for salary and benefits for the current employees. He does not have any money for contracts.

By July 1 for FY 2019 the contract budget will have about \$3,000. They have cut them to the bare bones and without the attorneys they cannot get things done they need to do to help citizens.

Mr. Kinyon said on the air ambulance in Clovis that the Air Ambulance is slower than in Amarillo and Albuquerque and at this point may not have been trying to collect additional money from patients. He asked if there was history in other states on both the additional on auto insurance premiums because they were wanting \$35,000 - \$50,000 for a single trip. He read that actual cost is between \$10,000 to \$12,000 a trip.

Superintendent Franchini responded this was high, of things to do, on the NAIC's calendar. They found in North Dakota this was unlawful to charge that kind of exorbitant fee. They have a letter from the FAA stating the only regulatory part they are responsible for is that the vehicle/plane/helicopter and crew are all trained properly and follow all FAA regulations. The billing process is the responsibility of the State and is why OSI was sued.

New Mexico has a statute to protect the policy holders and because of that we stopped them from going to any policy holders for payment. The ambulance air carrier is going to federal court to stop that and go to the policyholder directly, outside of the insurance company. That is a tactic, so the families would scream about the cost and make the insurance company pay the claims.

Superintendent Franchini said OSI can stop using policy holders as a way to get more money.

Chairman Thompson asked there are already set rates and variables.

Superintendent Franchini thought OSI could have more control in the State by next year. The NAIC is working hard on the national level to pass a bill before the summer session that gives more control to the states.

Superintendent Franchini said they have not found any billing under \$55,000 in the last three months and some were for 50 miles.

Chairman Thompson asked who authorizes the medical flights - the patient or the doctor.

Superintendent Franchini replied it is a problem because in a small town, the hospital doesn't want the liability. They will call for an air ambulance to move the patient. One case was a person with a broken arm that was moved from Artesia to Lubbock by air ambulance, and the claim was denied.

They need to protect the providers, so their liability is not at risk as well as the policyholder. They have a lot of work to do.

Mr. Vargas said if there were no questions, Ms. Baca had information to report.

Ms. Roberta Baca introduced senior agent Mark Torres. She wanted to expand on the Auto Theft Prevention Authority. They will be number one in the nation in the largest county in the State for the third year in a row.

She reviewed updated information with the Committee:

- There was a multi-jurisdictional task force with 22 statewide law enforcement members and now with the ATPA all law enforcement will belong.
- Auto theft is up in every county except Mora County, and they saw an increase from 1-3.
- They are meeting with law enforcement partners. The legislation is modeled after the Colorado Auto Theft Authority and New Mexico needs to become their own program to receive grants and private donations. They will be a flow-through agency for departments across the State to apply for grants or assistance and only one other state around New Mexico does not have an auto theft authority.
- The Superintendent Franchini has until July 1 to nominate the ATPA Board. There is no sunset clause, so the Authority will be the newest State agency attached to their division.
- The Superintendent will be able to set property and tag rates and have a better pulse on what is happening statewide.

They are also hosting their counterparts in the 50 states and territories for the National Fraud Director's Conference in Santa Fe in October that is the Silver Anniversary of Santa Fe hosting the conference 25 years ago.

Extra funding was not received for the conference or additional FTE's and the Deputy plans to meet with Finance about the likely need for more personnel.

Their cases are increasing: they have 96 pending active cases statewide; 19 are out of Bernalillo County. They are screening 39 cases; 24 additional cases have been indicted and 11 of those people were eligible for the pre-prosecution diversion program, 31 of those cases have plead and 7 of those cases were closed for insufficient evidence.

They are trying to develop criteria for the Authority and take on people with multiple offenses statewide and consolidate and have taken cases from AODAs.

She described examples of their top 5 offenders in detail with some having as many as 16 cases.

During the legislative session, they talked every day about the Auto Theft Prevention Authority. She was told of a woman working at the Legislature who brought to their attention Desiree Sanchez, who currently has eight felony cases. She is facing 314 years for cases in Santa Fe, Sandoval and Bernalillo Counties that range from burglary and larceny to trafficking and possession of controlled substances, identity theft, possession of a fire arm, etc. She is currently on probation for numerous other charges and will be sentenced June 25 and facing 22 years just on her probation violation.

She asked Mr. Torres to talk about what is being done on the law enforcement side.

Mr. Torres said all of their agents have 8-10 years of experience in the field. When they were in patrol they were the ones to make calls to launch a request for life flight. He thought they should develop education on the requirements because they do not learn about budgets and expenses. He thought the OSI could help law enforcement by providing that information to the sheriffs and police chiefs it will help.

*The AG representative left the meeting at 11:49.*

In the last 24 months they have been reaching out to the 33 sheriffs and 77 police chiefs in the state to get a better understanding of what is happening in the state, not only with auto theft but also on insurance fraud.

Last year they vetted 1,236 cases of insurance fraud and 780 were from NAIC and the rest from citizens. Some cases are referred to the civil investigation, but they moved 3 -4 cases a month and recommended prosecution. They are running more efficiently and have a new case management system to show how they are doing in real time and the information can be broken down by county and in some cases by city. The majority of their cases are auto theft and auto insurance related crimes. They see about 12% in Bernalillo County of owner give-up where the owner tries to hide behind auto theft.

The Fraud Division is tied to auto theft to ensure someone is not defrauding the insurance companies. There have 22 partners throughout the State educated on what to look for in auto theft as well as insurance fraud. Some are using their help and prosecutors and attorneys. They help their partners with auto theft cases and in turn partners provide them with areas to do interviews, etc. They investigate every crime in the state in which they have jurisdiction.

Mr. Yurcic asked Mr. Torres if he thought he had support from the judiciary in sentencing.

Mr. Torres replied that it depends on the jurisdiction. Currently there is a struggle between the Supreme Court and the district judges in the metro courts, but in Hobbs or Las Cruces, they are supported.

Mr. Kinyon indicated he had heard it is difficult to get a lawsuit if they have a more favorable court location and it is difficult to get a case relocated.

Mr. Torres explained he did not know about the lawsuits and dealt only with violation of a state statute. They only deal with criminal cases and not lawsuits.

Chairman Thompson added there is a statute where the plaintiff could choose where to file the case as long as it meets the venue setting. If the defendants thought they would not get a fair trial in that county, they could ask to change to another county and it is not easy, but it can happen. There are a few counties in which the plaintiff's attorneys try to get their cases filed.

It was noted that malpractice cases abuse that the most.

Ms. Baca introduced their new agent in the audience and reported they are now fully staffed.

There were no other questions.

Superintendent Franchini reminded those present about the seminar on health insurance in Santa Fe, after the balloon fiesta and is a national conference. He will send them an invitation and would be happy to see them.

### **Superintendent's Salary -**

Chairman Thompson noted that Section 59.92-2 of the New Mexico statute requires the Nominating Committee annually to set the proposed salary for the Superintendent and it also must meet the appropriation from the State Legislature.

The last time the salary was considered a salary of \$127,500 a year was established. He suggested OSI take a position on the salary and propose a salary of \$127,500 annually effective for 2018 and the first half of 2019 fiscal year. The amount is the same as proposed earlier and falls within the range required by the statute: *"not lower than the lowest sitting cabinet secretary and no higher than the highest compensated cabinet secretary"*.

Mr. Yurcic noted when evaluating the salary last time they had the opportunity to look at the salary levels of the cabinet salary levels. He asked if the Committee knows the salary levels have not changed.

Chairman Thompson said he has determined it is within the range but did not know specifics.

Mr. Yurcic recalled they based the rate on the top of the salary range and when first written, there was automatic cost-of-living adjustments. He asked that had taken place.

Superintendent Franchini replied the rate at the time was \$125,000 and has gone up 2% (to \$127,500) because of the rate increase to all employees. The other cabinet secretary positions would be subject to the same increase.

Mr. Kinyon said he has high regard for what has happened in the last five years on the Nominating Committee and regarding the amount, it is hard to say without more information, but they should take care of this.

Superintendent Franchini added they are trying to negotiate because they have not received the salary increase even though the Committee approved it in the OSI budget. The DFA has not followed the Committee's recommendation and hopefully now they can go back with the new increase. Every year OSI has sent money back to the General Fund because they had a surplus.

**Ms. Romero moved to set the salary for the Superintendent of Insurance at \$127,500 per annum. Mr. Kinyon seconded the motion and it passed by unanimous voice vote.**

### **4. BUSINESS FROM THE FLOOR**

Chairman Thompson noted they had a card on behalf of the Committee and the Superintendent's Office to thank Bill Kinyon for his years of service to the Nominating Committee.

Mr. Kinyon said he has been an insurance agent for 40 years and he considers it a great honor to be asked by the Legislative Council to serve on the Nominating Committee. It was a great way to wind down the long service career and he has enjoyed it very much.

Superintendent Franchini also thanked Mr. Kinyon for his service and recalled the day when they signed the contract for the building for independent agents.

He expressed his deep appreciation for Mr. Kinyon's great work and his leadership.

Deputy Superintendent Doucette reported the Superintendent was not paid for the last fiscal year and the budget until the end of this fiscal year has a surplus of salary and benefits of \$400,000, but starting July 1, will only have 8,000 dollars. If they plan to reimburse the Superintendent it must be done by the end of this month, because he will not be able to fire anyone if it comes out on July first.

Chairman Thompson understood that for 2018 and the first half of 2019 they set an annual salary of \$127,500 and therefore fulfilled the requirements of the statute. What the Committee has no control over is: *"The Superintendent's annual compensation shall be subject to legislative appropriation and established by the Insurance Nominating Committee at the start of each term and annually thereafter"*.

He did not know if that was the Administration or LFC that has to act, subject to the appropriations.

Deputy Superintendent Doucette clarified that OSI had received the appropriated money for that salary level a year and a half ago. The DFA chose not to follow the Board's authority and recommendation. He was just saying if the salary should be given back retroactively, it should be done this month, or it will impact the ability for hiring employees after the first of July.

Chairman Thompson asked if this should start with the head of DFA and if it is not worked out, then go to the Governor's Office. He offered to assist with that if needed.

Mr. Vargas recommended he work with Counsel from the Attorney General's office to develop a communication to the DFA. He would hesitate for anyone from his office to do that.

Chairman Thompson asked Mr. Vargas to contact the Counsel from the AG's Office and provide the status via email etc. of the communication. Then, if needed or helpful, he would get involved with the DFA and/or the Governor's office, but this should be done in June.

## 5. CALENDAR NEXT MEETING, Chairman Thompson

Superintendent Franchini agreed that January was good for a meeting but suggested there could also be a meeting in the fall before the National Conference to see if they would like to go. It would be good to have the Committee there to see what will be done nationally.

**Ms. Romero moved to approve the Superintendent scheduling a meeting between October 16-19, 2018. Mr. Yurcic seconded the motion and it passed by unanimous voice vote.**

6. **ADJOURNMENT**

The meeting of the Nominating Committee was adjourned at approximately 12:17 p.m.