

Senate Commerce & Human Resources Committee

Minutes
2006



MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 12, 2006

TIME: 1:37 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Goedde

MINUTES: **Chairman Andreason** introduced **Olga Copley**, committee secretary, and **Staniela Nikolova**, Senate Page, and welcomed them to their first session as Senate Attaches.

UPDATE: CONTRACTOR'S REGISTRATION **Chairman Andreason** welcomed **Rayola Jacobsen, Bureau Chief, Bureau of Occupational Licenses**, to the podium to provide an update on the status of contractor registration pursuant to HB 163. A written copy of her testimony is included in these minutes as Attachment #1. Overall, the registration process has been positive, with 6,034 complete registrations issued and an additional 5,000+ applications in various stages of processing.

Chairman Andreason commented that with approximately 11,000 applications "in the mill" he was very pleased with the Bureau's ability to handle this effort and provided his congratulations. **Senator Coiner** commented upon his personal experience with the simplicity and efficiency of the registration process.

Jeremy Pisca, a representative of the Idaho Building Contractor's Association, stated that estimates of the number of contractors in the state have ranged from 13,000 to 17,000. Prior to HB 1633, there had been no method to accurately track the number of contractors. Mr. Pisca reported that The Idaho Building Contractor's Association is very pleased with the results of the Bureau of Occupational License's registration efforts and services.

Chairman Andreason then turned the meeting over to **Vice Chairman Coiner** for Rules Review.

Vice Chairman Coiner asked for introductions to Rules for the Bureau of Occupational Licenses. **Rayola Jacobsen, Bureau Chief**, introduced **Roger Hales** to speak on behalf of Rules 24-0101-0501, 24-0801-0501, 24-1801-0501, 24-0801-0502, 24-2101-0501 and 24-2201-0501.

DOCKET NO. **Rules of the Board of Architectural Examiners:**

24-0101-0501

These are pending rules to update contact information and eliminate archaic language relating to the old architectural professional examination and update to the current Architectural Registration Examination (ARE) requirements. This rule also implements a time frame for completing all phases of the examination, thus requiring an applicant to complete all portions of the test within five years. Applicants who have already passed one or more, but not all of the divisions will have five years from July 1, 2006 to pass the remaining divisions.

MOTION:

Senator Compton made a motion, and **Senator Werk** seconded that the committee approve 24-0101-0501. The motion carried with a Voice Vote.

**DOCKET NO.
24-0801-0501**

Rules of the State Board of Morticians:

This rule provides changes with regard to State Board of Mortician meetings and adds two additional definitions for "funeral establishment" and "resident trainee." As the Board issues licenses for both funeral directors and morticians, the definitions clarify that "resident trainee" applies to both positions and educational requirements are delineated for both positions.

Senator Malepeai asked if these rules would apply to mortician and funeral home facilities located on Native American Reservations. **Mr. Hales** advised that they would not.

Mr. Hales continued that the fee requirement included in the rules is not a new fee, but has just been put in the appropriate place. It is the Board's desire to standardize requirements throughout the state with regard to both crematory and funeral home establishments and to standardize record-keeping and facility inspections.

MOTION:

Senator Broadsword made a motion, and **Senator Werk** seconded that the committee approve 24-0801-0501. The motion carried with a Voice Vote.

**DOCKET NO.
24-1801-0501**

Rules of the Real Estate Appraiser Board:

This rule changes the name of the entity approving continuing education for the Real Estate Appraisers program to comply with federal agency mandates.

MOTION:

Senator Compton made a motion, and **Senator Broadsword** seconded that the committee approve 24-1801-0501. The motion carried with a Voice Vote.

**DOCKET NO.
24-1801-0502**

Rules of the Real Estate Appraiser Board:

These rules are required to bring the licensing requirements for the Real Estate Appraisers Board into compliance with certain federal mandates taking effect January 1, 2008 and raises the requirements for licensure of all three classes of real estate appraisers. As licenses are issued based upon the requirements of law in effect at the time of application, the state must implement the new requirements in 2007 to insure compliance with the January 1, 2008 federal mandates. Although the Board has heard some opposition to the rules, it is felt that their adoption is the prudent

action to be taken at this time.

MOTION: **Senator Compton** made a motion, and **Senator Malepeai** seconded that the committee approve 24-0801-0502. The motion carried with a Voice Vote.

DOCKET NO.
24-2101-0501 **Rules Governing the Idaho State Contractors Board:**
These rules were submitted by the Idaho State Contractors Board to allow the Board to conduct business and pertain to public records, basic definitions, organization of the board, and application for licensure with an initial license fee of \$30.00 and renewal fee of \$25.00.

MOTION: **Senator Werk** made a motion, and **Senator Broadsword** seconded that the committee approve 24-2101-0501. The motion carried with a Voice Vote.

DOCKET NO.
24-2201-0501 **Rules Governing the Idaho Liquified Petroleum Gas Safety Board:**
These rules were submitted by the Idaho Liquified Petroleum Gas Safety Board. These rules will allow the Board to conduct business and also include fees for application and license of dealers (those who install gas storage tanks and/or lines) and facilities (entities which store large amounts of gas). The rules also provide clarification of educational courses required for licensure, as well as circumstances requiring new or re-licensing.

MOTION: **Senator Compton** made a motion, and **Senator Werk** seconded that the committee approve 24-2201-0501. The motion carried with a Voice Vote.

Vice Chairman Coiner then recognized **Barbara Porter, Executive Director of the Idaho State Board of Accountancy**, to review Rule 01-0101-0501.

DOCKET NO.
01-0101-0501 **Idaho Accountancy Rules:**
Ms. Porter provided a summary of the rule docket issued by her agency and a written copy of her testimony is included in these minutes as Attachment #2. This change will keep the Idaho Accountancy Rules in compliance with all standard changes issued by the American Institute of Certified Public Accountants (AICPA) and the Public Company Accountability Oversight Board (PCAOB) throughout the calendar year.

MOTION: **Senator Broadsword** made a motion, and **Senator Werk** seconded that the committee approve 01-0101-0501. The motion carried with a Voice Vote.

Vice Chairman Coiner then recognized **Shad Priest, Department of Insurance**, to review Rules 18-0109-0501, 18-0110-0501, 18-0118-0501, 18-0154-0501, and 18-0173-0501.

DOCKET NO.
18-0109-0501 **Senior Consumer Protection in Annuity Transactions:**
This rule provides senior citizen protection in annuity transactions and supports the legislation passed last year which requires insurance agents and brokers to have reasonable grounds for believing that any annuity recommended to a consumer is a suitable investment based upon a consumer's age, financial situation and needs. The rule provides

clarification of the legislative statute and includes definitions, explains transactions exempt from this law, provides for the types of information that should be considered in making any recommendation to a senior consumer, and sets forth situations in which a producer/insurer will not have an obligation under this law. This rule also sets forth the steps insurers have to take to insure a system is in place that is reasonably designed to achieve compliance with the law and the period of time for which records have to be retained relating to such transactions.

This rule, as well as the law, were largely taken from the model developed by the National Association of Insurance Commissioners (NAIC); however, the department did include some modifications that were felt to be appropriate and would provide additional safeguards with respect to situations occurring in Idaho. Negotiated rule making was conducted with respect to this rule. Although much time was spent dealing with questions, inquiries and hearings, additional comments were received after the negotiated rule making and were considered. At this time the department feels it is prudent to proceed with the rule as it currently stands; and, if there are problems, then re-visit or amend the rule if needed.

Discussion followed with **Senator Cameron** stating that he would like to see additional measures to go a step further and protect senior consumers from excessive penalties for early withdrawal of annuity funds. **Senator Broadsword** discussed a similar situation where she was contacted by a constituent who was severely penalized for withdrawal of annuity funds.

MOTION: **Senator Broadsword** made a motion, and **Senator Compton** seconded that the committee approve 18-0109-0501. The motion carried with a Voice Vote.

DOCKET NO.
18-0110-0501 **Producers Handling of Fiduciary Funds:**
This rule is proposed in response to a change in law regarding producers handling of fiduciary funds. These funds cannot be co-mingled with personal funds or business accounts and must be maintained in a separate trust account. This rule implements procedures for producers to follow with respect to that law. Negotiated rule making, including a hearing, was conducted with respect to this rule and any concerns were addressed. There is currently no known opposition to this rule.

MOTION: **Senator Andreason** made a motion, and **Senator Compton** seconded that the committee approve 18-0110-0501. The motion carried with a Voice Vote.

DOCKET NO.
18-0118-0501 **Open Lines for Export - Surplus Lines:**
This rule is a listing of lines of insurance that are open for export to the surplus lines market (insurance for which there is no readily available coverage from a licensed company in Idaho). This rule was requested by the Surplus Lines Association, which oversees the surplus lines market, to update the list by deleting lines no longer available and including currently available lines which were not previously listed. Negotiated rule making was also conducted with respect to this rule and there is no

known opposition to the rule.

MOTION: **Senator Andreason** made a motion, and **Senator Werk** seconded that the committee approve 18-0118-0501. The motion carried with a Voice Vote.

DOCKET NO.
18-0154-0501 **Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act:**
This is a model rule developed by the National Association of Insurance (NAIC) to implement state regulatory procedures with respect to Medicare Supplement policies. This is a model rule implemented by other states throughout the country and is being amended to reflect the changes that were recently made with respect to the Medicare prescription drug plans.

MOTION: **Senator Compton** made a motion, and **Senator Stegner** seconded that the committee approve 18-0154-0501. The motion carried with a Voice Vote.

DOCKET NO.
18-0173-0501 **Rule to Implement the Individual Health Insurance Availability Act Plan Design:**
This is a rule to implement the Individual Health Insurance Availability Act Plan Design. Legislation was amended last year to allow for the addition of a Health Savings Account (HSA) plan that will be re-insured by the state's high-risk pool.

MOTION: **Senator Compton** made a motion, and **Senator Andreason** seconded that the committee approve 18-0173-0501. The motion carried with a Voice Vote.

ADJOURNMENT: The meeting adjourned at 2:59 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

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January 12, 2006

Senate Commerce and Human Resource Committee:

Testimony regarding Contractor Registration:

House Bill 163, creating the Registration of Contractors was signed by Governor Kempthorne, March 25th 2005. The Contractor Registration Board was appointed, Temporary rules were approved and voluntary registration became available on July 1st. Brochures and posters were developed and distributed statewide in an effort to provide information to the public. Mailings of the information were completed to every county clerk, every city office issuing building permits, every city mayor and 46,500 were included in the quarterly tax mailing sent out by the Department of Commerce and Labor. Distribution to suppliers, lumber yards, and posting in Post Offices in over 50 towns was also accomplished. Informational meetings were held across the state by Building Contractor Associations, The Better Business Bureau, various banks and Realtors. Over 55,000 brochures were printed and distributed.

On July 1, 2005 the Bureau of Occupational Licensing offered voluntary registration for contractors, six individuals filed applications that day, beginning the process that today has completed 6,034 issued registrations. In addition there are currently 5,000 + applications in various stages of processing with approximately 1800 of these that are complete and scheduled for Board review January 17th.

The registration process began slowly, realized an increase in numbers in November and finished the year with the receipt of 5,000 applications in four days. The number of individuals that personally appeared in the Bureau office varied from 1 or 2 an hour to 20+ at a time, with a generous re-supply of applicants. IBOL staff was able to meet the challenge and the waiting period for completion of an application and issuance of a receipt did not exceed ten (10) minutes. I would like to share two examples, the first one illustrates the importance that is placed on this registration; a young man came into the office early December with his two sons, they were about 4 and 6 years old the young man explained he was 28, had worked in construction since he was 17 and had managed to start a small company, he was filing well before the 1st of January as he was very concerned that if he did not "do this right" he could lose everything he had worked for. As I checked the application for him I noticed his hands were shaking, his application

EQUAL OPPORTUNITY EMPLOYER

was correctly filled out and was processed, reviewed by the Board and approved. The second example illustrates the camaraderie of contractors; several day before Christmas a large number of applicants were filing in person, one individual completed the application, and found that he had left his wallet and check book in his pickup, he searched his pockets and found some cash but was short of the \$30.00 fee, as soon as he realized that he needed additional funds the people in line began handing him dollar bills, much to his embarrassment, they gave him money until the required amount was reached, wished him Merry Christmas and refused repayment.

The extremely heavy volume of applicants in a short amount of time as well as the additional requests for information by calling, emailing and personally appearing contributed to a backlog that we are addressing and are planning to resolve prior to February 1st .

The Board appointed by the Governor is meeting once a week to review and approve applications. This volunteer Board is working in a positive, pro-active, problem solving manner in a team effort with the Bureau staff. We appreciate their can-do, will-do attitude.

In consideration of the negative discussions that occurred during legislative discussion of this registration, I asked that all negative calls, emails and personal contacts be directed to me. I can report that less than 1% of the contacts made with IBOL were negative in nature. Approximately 1/4 of the applicants were strongly supportive, the majority were making sure they were complying with the law, a very small minority were concerned that the "Government" was adversely impacting them, and one individual remained opposed to Registration. One positive example I would like to share was from Mower Bros. Construction, Inc., "To Whom It May Concern: I would like to tell you how pleased I am with this new law. I appreciate it and all that it will do for contractors in Idaho. We deal with many poor quality contractors that fly by night, job to job. It makes it difficult to be competitive and to keep steady work ahead of us, but most importantly it is sad to see the poorness that goes on in residential building. Thank you very much for all that you are doing. I am wondering if! send my application in this month will I be issued registration before January 1, 2006." This registration was issued 11/17/05.

In conclusion I would like to express my appreciation for being allowed the opportunity to work with this effort; the camaraderie we have experienced in working with these folks has been great. The Contractors applying for registration have been pleasant, understanding and positive, they have encouraged and thanked us for our efforts, wished us a Merry Christmas as well as my favorite, "have a great day".

Thank you are there any questions?

January 12, 2006
Senate Commerce and Human Resources
Rule Dockets 01.0101.0501

Good Afternoon, Mister Chair and Members of the Committee:

I am Barbara Porter, Executive Director of the Idaho State Board of Accountancy.

I am pleased to offer a summary of the rule docket our agency issued and is here for your review.

You will find our docket **01-0101-0501** in the 2006 Pending Rule section of your Administrative Rule books, pages 4-6.

The docket updates the rule that incorporates national standards by reference. The rule refers to 2005 AICPA Professional Standards and the professional standards issued by the Public Company Accountability Oversight Board (PCAOB) created by the Sarbanes-Oxley Act of 2002. We are requesting the rules be updated to refer to 2006.

This change will keep the Idaho Accountancy Rules in compliance with all standard changes issued by the AICPA and PCAOB throughout the calendar year.

The rules have been published through the Office of Administrative Rules. Legislative Services has reviewed our proposed rules and have no objections to the changes. We have received no negative feedback from our stakeholders or the general public.

Thank you for the opportunity to address your committee. With that Mr. Chair and members of the committee, I would be happy to stand for any questions you may have.

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** January 17, 2006
- TIME:** 1:36 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:36 p.m. and welcomed **Alan Winkle, Public Employee Retirement System of Idaho (PERSI)**, to address the committee regarding RS 15330, RS 15332, RS 15333C1, RS 15334 and RS 15335.
- RS 15330** This legislation provides that application for disability retirement must be made within one year of a member's last day physically on the job.
- MOTION:** **Senator Coiner** made a motion, and **Senator Broadsword** seconded that RS 15330 be sent to print. The motion carried with a Voice Vote.
- RS 15332** This legislation eliminates the "old" voluntary contribution plan under the defined benefit. This is an old program that is no longer needed, and there are currently only two members remaining in this program. PERSI is working to convert the members' after-tax contributions to Individual Retirement Accounts (IRA's) or similar programs.
- MOTION:** **Senator Compton** made a motion, and **Senator Broadsword** seconded that RS 15332 be sent to print. The motion carried with a Voice Vote.
- RS 15333C1** This legislation provides a common list of covered premiums between state and school programs, including Medicare Part D benefits sponsored by the employer, and will cap benefits paid in accordance with federal tax limits. It also makes amendments to better define "rate of pay" for purposes of calculating unused sick leave benefits.
- MOTION:** **Senator Cameron** made a motion, and **Senator Goedde** seconded that RS 15333C1 be sent to print. The motion carried with a Voice Vote.
- RS 15334** This legislation amends language in Section 59-1356 of the Idaho Code describing the status of benefit for retired members returning to PERSI covered employment and clarifies treatment of such members as retirees for purposes of any death benefit, to be consistent with current PERSI practice and current law.
- MOTION:** **Senator Compton** made a motion, and **Senator Broadsword** seconded that RS 15334 be sent to print. The motion carried with a Voice Vote.

RS 15335

This legislation amends Section 59-1359 of the Idaho Code to eliminate mandatory distribution of account balances of over \$1,000 to avoid new federal mandatory rollover requirements. The change in federal law requires any mandatory distribution to be rolled into an IRA if it is not paid out, which presents a host of complications for both PERSI and the member. Mr. Winkle advised it would be easier to administer and less expensive to keep these non-vested employee contributions within the system as inactive, non-retired member accounts. The state would not be at risk for any additional liability for these accounts; it is simply an accounting record of funds that are due and payable at any time upon location of the member or beneficiary. The new federal laws on mandatory distribution will go into effect immediately upon conclusion of this legislative session.

MOTION:

Senator Coiner made a motion, and **Senator Malepeai** seconded that RS 15335 be sent to print. The motion carried with a Voice Vote.

Chairman Andreason then turned the meeting over to **Vice Chairman Coiner** for Rules Review.

Vice Chairman Coiner asked for introductions to Rules for the Public Employees Retirement System of Idaho (PERSI). **Alan Winkle** spoke to the committee on behalf of Docket Numbers 59-0103-0601 and 59-0106-0501.

**DOCKET NO.
59-0103-0601**

Contribution Rules for the Public Employee Retirement System of Idaho (PERSI)

This is a temporary rule enacting the decision of the Board of Retirement to delay the two remaining contribution increases by one year. The increases had been implemented about three years ago due to decreased investment earnings. However, since the fund has rebounded more quickly than anticipated, the Board has decided to postpone the contribution increases from 2006 to 2007, and increases for 2007 to 2008.

MOTION:

Senator Werk made a motion and **Senator Broadsword** seconded that the committee approve the extension of Docket Number 59-0103-0601. The motion carried with a Voice Vote.

**DOCKET NO.
59-0106-0501**

Retirement Rules of the Public Employees Retirement System of Idaho (PERSI)

This is a pending rule which contains several parts. The Board continues to go through "business process re-engineering" for the purpose of examining all functions to be more cost-effective and efficient. This rule "streamlines" the application and signature processes. As federal law requires distribution of retirement funds at age 65, this rule sets up a "default" option of a regular retirement allowance for inactive members who have not yet "retired."

The rule also provides additional amplification regarding "sick leave" and allows the Board to complete calculations of sick leave and updates some wording. As the schools operate on "days" of sick leave and the state operates on "hours" of sick leave, the rules now provide calculations for daily and hourly rates. As retirement benefits are calculated based upon

the earnings at the time of retirement, the Board is also given authority to make adjustments in the salary rates when there are special circumstances (bonuses or other payments) which would unduly escalate the benefit calculation at the time of retirement. The rule also makes adjustments to the unused sick leave benefits to provide more equity in funding between school districts. As the sick leave benefit differs from district to district, a funding matrix has been developed to more equitably determine the funding liability of each district. The districts were included in the process of establishing this matrix, and they are aware of any increase in their funding liability.

MOTION: **Senator Compton** made a motion and **Senator Broadsword** seconded that the committee approve Docket Number 59-0106-0501. The motion carried with a Voice Vote.

Vice Chairman Coiner then recognized **Stephen Keys, Director of the Division of Building Safety**, to review Docket Numbers 07-0102-0501, 07-0104-0501, 07-0104-0502, 07-0106-0501, 07-0203-0501, 07-0206-0501 and 07-0206-0502.

DOCKET NO.
07-0102-0501 **Rules Governing Fees for Electrical Inspections**
This is a pending fee rule to establish a \$10 electrical permit and inspection fee for small jobs of less than \$200. The current fee is \$40 dollars, regardless of the size of the job. The purpose of reducing this fee is to encourage the inspection process for smaller electrical jobs.

Vice Chairman Coiner recognized **Representative Janice McGeachin**, who addressed the committee in opposition to the rule on behalf of the Teledata Task Force. **Ms. McGeachin** advised that the Teledata Task Force is a recently formed, loose coalition of telecommunications companies. Prior to legislation which was passed last year, these companies were exempt from any fees. They are now concerned that the permit and inspection fee will be applied to them if the rule is accepted.

Mr. Keys stated that the fee would only apply to minor electrical work and apply to property owners and electricians. Discussion followed among the committee members regarding last year's legislation (H 139) and concerns that passage of this rule could allow the fee to be applied to telecommunications as well as electrical jobs.

MOTION: **Senator Cameron** made the motion that Docket No. 07-0102-0501 be held in the committee for further review, subject to the call of the Chairman of the Rules Review. The motion was seconded by **Senator Andreason** and carried with a Voice Vote.

DOCKET NO.
07-0104-0501 **Rules Governing Electrical Specialty Licensing**
This rule expands the number of residential effluent pumps a specialty electrical licensee in the well driller/pump installer category may install from one- or two-family residential installation to one-, two-, or three-family residential installations under certain conditions. This rule change was formulated in response to requests from industry, and the Electrical Board is in approval. There is no known objection to this rule.

Vice Chairman Coiner recognized **Dick Rush, Idaho Association of Commerce and Industry (IACI)**. Mr. Rush posed a question regarding Section 014.04.c of the rule which requires the licensing of persons who install, maintain, replace or repair electrical wiring and equipment for limited energy systems other than one- or two-family dwellings, and requires that they must be employed by a licensed limited energy specialty electrical contractor or an electrical contractor. This is very similar to Docket Number 07-0104-0502, which is opposed by the IACI.

Mr. Keys stated that this provision has been included in the administrative rules since 1998.

MOTION: **Senator Cameron** made a motion and **Senator Stegner** seconded that the committee approve Docket Number 07-0104-0501. The motion carried with a Voice Vote.

DOCKET NO. 07-0104-0502 **Rules Governing Electrical Specialty Licensing**
Mr. Keys advised that this rule has generated significant controversy. This is a pending rule to carry out the provisions of H 139 which was passed by the legislature last year. Mr. Keys stated it was the Bureau's request that the committee reject this rule in view of the criticism and opposition they received regarding the rule.

Senator Andreason made a motion and **Senator Broadsword** seconded that the committee reject Docket Number 07-0104-0502. The motion carried with a Voice Vote.

DOCKET NO. 07-0106-0501 **Rules Governing the Use of National Electric Code**
This rule adopts the most current edition (2005) of the National Electrical Code (NEC).

MOTION: **Senator Werk** made a motion and **Senator Andreason** seconded that the committee approve Docket Number 07-0106-0501. The motion carried with a Voice Vote.

DOCKET NO. 07-0203-0501 **Rules Governing Permit Fee Schedule**
This rule will reduce the permit fee paid by plumbing contractors installing sewer and water lines in a one- or two-family residence from \$50 to \$16.

MOTION: **Senator Compton** made a motion and **Senator Stegner** seconded that the committee approve Docket Number 07-0203-0501. The motion carried with a Voice Vote.

DOCKET NO. 07-0206-0501 **Rules Concerning Uniform Plumbing Code**
The rule will allow the jurisdictions having authority to regulate seismic strapping. Seismic categories throughout the state are varied and difficult to identify and many jurisdictions already have them in place, and are enforcing, seismic strapping requirements as needed.

MOTION: **Senator Broadsword** made a motion and **Senator Stegner** seconded that the committee approve Docket Number 07-0206-0501. The motion carried with a Voice Vote.

**DOCKET NO.
07-0206-0502**

Rules Concerning Uniform Plumbing Code

This temporary rule addresses problems that installers of water softening equipment are encountering in the field and protects homeowners from incurring the expense and time in altering plumbing systems in newly constructed homes to adapt to current models of water softening devices.

MOTION:

Senator Andreason made a motion and **Senator Werk** seconded that the committee approve Docket Number 07-0206-0502. The motion carried with a Voice Vote.

Stephen Keys then introduced **Jack Rayne, Building Bureau Chief**, to address Rules Docket Numbers 07-0301-0501, 07-0301-0502, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501 and 07-0308-0501. These rules deal with a chapter rewrite and fee rule and six chapter repeals.

Due to time constraints, **Vice Chairman Coiner** requested that all remaining Rules Dockets for the Department of Building Safety be carried over to the meeting on January 24, 2006, and then returned the meeting to **Chairman Andreason**.

Chairman Andreason then recognized **Milford Terrill**, a member of the State Plumbing Board and State Board of Education. He stated that the board members serve on a voluntary basis under the direction of the Attorney General. He advised that additional direction from the legislative committees would be useful in establishing specific parameters regarding "how far" the boards are to proceed in their efforts to determine if current laws are adequate, and are being enforced as appropriate by the Attorney General, in the State of Idaho.

Chairman Andreason then recognized **Robert Geddes, Sr., Idaho State University**. Mr. Geddes stated that the University was very concerned with the impact of the proposed rules on their academic and technology teaching programs. He requested that the committee consider the impact to all of the academic and teaching programs in the state when deciding whether or not to adopt administrative rules.

ADJOURNMENT: **Chairman Andreason** adjourned the meeting at 2:57 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** Thursday, January 19, 2006
- TIME:** 1:30 p.m.
- PLACE:** Basement Conference Room - JR Williams Building
Joint Meeting with Senate and House Agriculture and Commerce Committees
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Goedde, Broadsword, Malepeai
- MEMBERS ABSENT/ EXCUSED:** Senators Stegner, Cameron, Compton, Werk
- CALL TO ORDER:** **Senator Andreason**, Chairman of the Senate Commerce & Human Resources Committee, chaired the Joint Meeting, calling it to order at 1:37 p.m.
- He welcomed the audience (approximately 16), and Joint Committee members. The sign-in sheet will be retained with the minutes in the committee's office until the end of the session, and then will be on file with the minutes in the Legislative Services Library.
- PRESENTATIONS:** **Chairman Andreason** then introduced **Roger B. Madsen, Director of Idaho Commerce & Labor**, who discussed Idaho's international trade efforts. A copy of Mr. Madsen's testimony is included in these minutes as Attachment 1.
- Mr. Madsen** then introduced **Stephanie Camarillo, Administrator, Idaho Commerce & Labor**, who discussed the state of Idaho's international business services and expanding trade efforts. A copy of her testimony is included in these minutes as Attachment 2.
- A slide presentation, "Idaho and the Global Marketplace," covered the following areas of the Idaho international trade efforts:
- International trade offices in Asia, China, Mexico and Korea;
 - A graph reflecting a 39% increase in Idaho exporting trends from 2003 to 2004;
 - List of top ten international trading partners;
 - Idaho trade offices in Shanghai, Mexico, and Japan;
 - Highlights of the Governor's trade missions to Asia and Mexico;
 - Agricultural trade policy (tariffs, sanitary and phytosanitary measures, quotas, state trading enterprises, export subsidies and domestic support;
 - Program and company success stories.
- Ms. Camarillo** then introduced **Laura Johnson, Bureau Chief, Idaho**

State Department of Agriculture, who addressed Idaho agriculture trade and marketing issues. **Ms. Johnson** presented slides which highlighted the key elements of Idaho's trade programs, to include the following:

- Governor Kempthorne's two trade missions to Asia and Mexico;
- Japan's support of Micron's case against Hynix which was filed with the World Trade Organization (WTO) which resulted in a favorable ruling for Micron;
- Governor Kempthorne's meeting with the largest wheat importer in China, which resulted in the doubling of wheat exports;
- An invitation for Idaho to join the Korea/Pacific US State Economic Partnership;
- Filming of cooking shows in Mexico to highlight Idaho food products;
- Appearances with the CEO of the largest supermarket chain in Mexico to introduce and encourage the use of additional Idaho products to be marketed to their customers.
- Governor Kempthorne met with officials of GE Mexico, thus opening doors for Idaho technology firms to provide services and products.

Ms. Johnson then introduced four key Idaho exporters who are actually benefitting from these programs to provide personal testimonials regarding the benefits of Idaho's international trade efforts:

**COMPANY
TESTIMONIALS:**

Doug Sayer, Chief Operating Officer of Premier Technology, discussed his company's partnership with the staff of Idaho Commerce & Labor to take their services to the international market. This has resulted in considerable growth for their company as they expand into the nuclear energy field. He encouraged the legislature to support funding for the continuation and expansion of Idaho's international trade efforts.

Lynn Wilcox, President of Wilcox Marketing, related some of the problems that his company has encountered in the marketing of their produce to the international market. He discussed the difficulties that Idaho exporters faced in the wake of the terrorists attacks on the United States on September 11, 2001, and the progress that has been made to develop and expand international trade opportunities through the efforts of Governor Kempthorne and Idaho Commerce & Trade. He also encouraged the legislature to support funding to expand Idaho's international trade programs.

Kirt Marlow, Vice President of Operations for Docutech Corporation, stated that he feels the trade missions and trade offices established by Idaho Commerce & Labor are the best investments of state money that he has ever seen. As the international market is expected to increase substantially in the next few years, continued funding for these efforts will help Idaho grow the type of industries that will keep our university graduates in Idaho.

Rick Kay, President of Fresca Mexican Foods, related how the

international trade missions helped his company to discover new markets for his tortilla products. Through the international trade missions he was able to discover a variety of additional markets for his products, which has contributed to the growth of his company. International markets are very important to small businesses in Idaho, and he encouraged the legislature to continue supporting and expanding these international trade programs and offices.

**INTERNATIONAL
PROGRAMS
WRAP-UP:**

Pat Tagasugi, Director of the Idaho State Department of Agriculture, thanked the company representatives for their testimonials and thanked staff members for the great job they have done to take Idaho products to a global market. The goal of the state agencies involved in the international trade efforts is to build a strong economy for the State of Idaho. From the beginning of these efforts, the strategy was to partner with the legislature to build Idaho's economy through continued international (outside the state) sales. Although many markets and doors have been opened, there is considerable opportunity for growth in the science and technology fields.

Karl Tueller, Deputy Director of Idaho Commerce & Labor, addressed the Governor's proposed budget of \$300,000 to enhance the international trade efforts and open a full-time office in Shanghai and a part-time office in Japan. He also discussed the establishment two years ago of the Office of Science & Technology within the Idaho Commerce & Labor Department. Twenty-five percent of Idaho's economy is based on technology, including bio-agriculture. He introduced **Ray Barnes, Director of Tech Transfer at the Idaho National Laboratory**, to address the committee on behalf of the Director, John Grossenbacker, who was unable to attend the meeting.

**SCIENCE &
TECHNOLOGY
ADVISORY
COUNCIL:**

Mr. Barnes addressed the need for a legislative commitment for funding the Office of Science & Technology with a slide presentation on the importance of science and technology, the challenges to be faced, ways to better employ resources to face these challenges, and the funding commitment needed to nurture Idaho's scientific and technology capabilities. Idaho leads the nation in a number of science and technology industries and there are many opportunities for innovation.

Competition is now on a global level and action is needed for Idaho to keep up with the competition. The Governor's request for legislative funding of the Science & Technology Initiative totals \$1.4 million for this year. Some of the objectives in the strategic plan include:

The Small Business Innovation Research Program (SBIR): This is a \$2 billion per year, federal grant program that is aimed specifically to start-up small science and technology companies that have new, innovative ideas. Assistance would be provided to help such companies submit successful grant applications for these resources.

The Idaho Tech-Connect Initiative: This is a statewide, not-for-profit organization which would be the primary commercialization mechanism for upstart companies, providing hands-on help for entrepreneurs.

Educational Funding: This budget includes \$1 million to support two activities: (1) Establish the Idaho Research Foundation as a statewide mechanism for the intellectual properties that come out of public universities in Idaho; and (2) provide limited matching funds for Idaho University researchers working in several identified core technology areas featured in the strategic plan for science and technology.

Mr. Barnes emphasized that this is a long-term investment, but one that will pay tremendous dividends. He encouraged legislators to view these investments very favorably as a sound investment in the future of Idaho science and technology economy.

QUESTIONS:

At 2:55 p.m. **Chairman Andreason** and the members of the Senate Commerce & Human Resources Committee had to leave the meeting to attend other committee assignments. **Chairman Andreason** turned the meeting over to **Representative Schaefer, Chairman of the House Commerce Committee**, to preside over the meeting.

Representative Matthews thanked the speakers for all of their testimony, and asked Mr. Barnes whether energy would be a fundamental part of the science and technology economic growth.

Mr. Barnes advised that there are a number of things pertaining to agriculture with regard to bio-fuels and alternate uses for bio-feed stocks, etc.

Representative Matthews asked whether it is conceivable that Idaho could be an exporter of energy in the foreseeable future. **Mr. Barnes** advised that the potential certainly exists, and there is current effort involving those at the state level and at the laboratory to examine where Idaho is headed in the area of energy, and if Idaho wants to become an exporter of energy.

ADJOURNMENT: The meeting adjourned at 3:12 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

ATTACHMENT #1

**Testimony of Roger B. Madsen, Director, Idaho Commerce & Labor
Joint Meeting of House and Senate Commerce & Agriculture Committees
Thursday - January 19, 2006**

Senator Andreason, Representative Schaefer, Senator Williams, Representative Field, members of the Agricultural Affairs and Commerce and Human Resources committees of both the House and Senate.

I appreciate the opportunity you are providing Idaho Commerce & Labor and the Department of Agriculture to bring you up to date on our international trade operations and our plans for the future.

Exports are becoming a bigger and bigger part of our economic picture here in Idaho, and in no small part because of the investments the governor and this Legislature have made in recent years.

Our trade representatives in Asia and Mexico are connecting more and more Idaho businessmen with foreign customers for their products so that today one of every 10 Idaho workers owes his job, at least in part, to the international market.

In the past eight years, the number of businesses developing foreign customers has jumped nearly 10 percent to almost 1,200.

Since 2002, our exports have jumped 63 percent, and when the final figures are in for 2005 they will have topped \$3 billion for only the second year ever.

While the bulk of our exports have been computer chips and other high-tech items, enterprising Idaho businesses are selling hundreds of different types of products and services in other countries — everything from trucks, motorcycles and aircraft parts to fishing rods and reels, golf shoes and kitchen knives.

These Idaho exporters are using foreign markets to diversify, maintain profitability and underwrite expansion.

And their growth could easily escalate now that we have a memorandum of understanding in effect with the U.S. Export-Import Bank. It has opened up new financing options that will help companies overcome the roadblocks they've encountered in trying to expand their foreign sales or in trying to make a foreign sale for the first time.

The trade promoters at Idaho Commerce & Labor and Agriculture will outline for you in just a few minutes how our government helps businesses identify foreign markets and then how to successfully maneuver within them. You'll see what the state is doing to help our cornerstone industry navigate the scientific, genetic and other restrictions nations impose on our agricultural products, which consistently account for \$350 million in export sales each year.

And you'll hear from the people who are most affected — the business owners whose bottom lines are bolder today because they've expanded their markets not just beyond Idaho but beyond the borders of this country.

ATTACHMENT #1

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Also here to answer any questions are our trade representatives Eddie Yen, who has been our Asian marketer from Taiwan for the last 14 years; and Armando Orellana, who has represented the state in Mexico for over a decade, and Dr. Cao Guoli, who is our part-time representative in China.

We've come this far on a very limited investment bolstered by the elevated profile Governor Kempthorne's highly successful trade missions to Asia, Mexico and Canada have provided.

But just the kind of modest increase the governor is recommending in that investment could dramatically improve the services our departments are providing Idaho exporters and exporters-to-be and significantly increase the financial return those businesses achieve.

These services help make Idaho companies much more competitive and provide the kind of flexibility that makes exporting feasible for more and more businesses, opening up another avenue to profit and growth.

ATTACHMENT #2

Testimony of Stephanie Camarillo, Administrator, Idaho Commerce & Labor Joint Meeting of House and Senate Commerce & Agriculture Committees Thursday - January 19, 2006

Senator Andreason, Representative Schaefer, Senator Williams, Representative Field, members of the Agricultural Affairs and Commerce and Human Resources committees of both the House and Senate— We are here today to report successes and demonstrate opportunity. For over ten years, Idaho*s trade managers have reported to you successes in their various markets. You are aware that the state has focused resources on the key markets in Asia and North America that they represent.

We want to underscore that these trade offices are the cornerstone of Idaho*s trade promotion programs. These gentlemen educate businesses and Idahoans in general about trade opportunities, promote our state to the world and connect businesses with opportunities. Without their invaluable expertise and native understanding of their respective countries, our companies would be forced to hire expensive consultants or spend countless hours developing the markets themselves.

The years of services that these gentlemen represent, in combination with the Governor*s commitment to trade, have laid the groundwork for Idaho to expand its international trade significantly as you will see on this graph. As Roger mentioned, we anticipate that 2005 will be the second strongest year ever for trade in Idaho.

It*s happening because of explosive growth and opportunities in several key markets where Idaho already has a presence. And these are places where Idaho companies could benefit even more significantly from additional investment.

China represents growth, opportunity and numerous challenges. Look at the increase in China*s trade with Idaho (show graph). Five years ago, China was not even in our top-10 trading partners. But, of any country in the world, China is the place where Idaho companies need the most help to navigate the significant business and cultural barriers that exist. Idaho currently operates a China office on a shoestring budget--\$24,000 a year is the lowest of any state in the U.S. In order to fully realize the China opportunity for our companies and make sure they can keep up with the tremendous growth in this country, we must do more.

Japan is the most mature market in all of Asia, and historically a tremendous market for Idaho companies. During the past ten years, Japan has been Idaho*s number one or number two trading partner all but one year. Japan is emerging from an economic downturn and promises to be an even more formidable force in the future. The Far Eastern Economic Review states “Japan is back” and over the next 5 to 10 years will see growth of 2.5%, much higher than previously anticipated. Idaho operated a part-time office in Japan until 2000 when our own economic downturn, coupled with the unfortunate death of our long-time Japan office manager, led us to temporarily close the office. It is essential that we re-establish this office and continue to assist our companies as they form joint ventures and look to the growing purchasing power of the Japanese consumer.

ATTACHMENT #2

Page 2

Owing to its geographic proximity and strong ties with our state, Mexico has remained a strong ally in trade with Idaho. Mexico and the U.S. realize the need to strengthen economical ties in order to keep up with growing competition from India and China. Governor Kempthorne, who visited Mexico in December, invited a delegation to visit Idaho this summer where we will hold an event focusing on technology and competitiveness. Mexico is also a springboard for other areas in Latin America, something that will continue to benefit Idaho companies as they seek to expand their global presence.

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 24, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Vice Chairman Coiner, Senators Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: Chairman Andreason, Senators Cameron, Stegner, Goedde

CONVENED: **Vice Chairman Coiner** called the meeting to order at 1:34 PM.

Gubernatorial Appointment: **Vice Chairman Coiner** asked for comments and discussion on the Gubernatorial Re-Appointment of **Peter J. Black** of Pocatello, Idaho, to the Idaho Personnel Commission to serve a term commencing July 1, 2005 and expiring July 1, 2011.

MOTION: **Senator Compton** made the motion, and **Senator Malepeai** seconded to send this re-appointment to the Floor. The motion carried with a Voice Vote. **Senator Malepeai** will sponsor **Mr. Black's** re-appointment on the Floor.

Vice Chairman Coiner then called upon **Matt Freeman of the Legislative Services Office** to address the committee regarding RS 15619.

RS 15619 This legislation is presented as the result of the Legislative Council Interim Committee State Employee Compensation (CEC) meetings held this past year to review the state's compensation system.

Senator Broadsword asked for an estimation of the fiscal impact this legislation would impose upon the state budget. **Mr. Freeman** advised there is an estimated one-time programming cost of \$125,000. **Senator Broadsword** stated her appreciation to staff for taking efforts to bring state compensation closer to market-based wages.

MOTION: **Senator Compton** made the motion and **Senator Werk** seconded to send RS 15619 to print. The motion carried with a Voice Vote.

Vice Chairman Coiner introduced **David Curtis, PE, Board of Professional Engineers & Land Surveyors**, to present to the committee Rule Docket Number 10-0101-0501.

DOCKET NO. 10-0101-0501 **Rules of Procedure**
This is a pending rule amendment and was subject to negotiated rulemaking and two public meetings. No comments were received verbally or in writing. **Mr. Curtis'** testimony regarding this rule docket is

included in these minutes as Attachment #1. The changes include updating the agency contact information and the elimination of the Board's responsibility to proctor examinations for other jurisdictions, due to the logistical and administrative difficulties, except for state specific examinations.

MOTION: **Senator Broadsword** made the motion and **Senator Werk** seconded to approve Rule Docket Number 10-0101-0501. The motion carried with a Voice Vote.

Vice Chairman Coiner introduced **Donna Jones, Executive Director of the Idaho Real Estate Commission**, to present Rule Docket Numbers 33-0101-0501, 33-0101-0401 and 33-0101-0502. Ms. Jones' testimony is included in these minutes as Attachment #2.

DOCKET NO.
33-0101-0501

Rules of the Idaho Real Estate Commission

This is a pending non-fee rule, which is necessary to comply and coordinate with deadlines in the statutory amendment resulting from S1010. The text being deleted by this rule has already been added to statute at Section 54-2018, Idaho Code.

MOTION: **Senator Werk** made the motion and **Senator Broadsword** seconded to approve Rule Docket Number 33-0101-0501. The motion carried with a Voice Vote.

DOCKET NO.
33-0101-0401

Rules of the Idaho Real Estate Commission

This is a pending fee rule which reduces the licensing fee amount set in the pending rule by an additional \$20 per bi-annual licensing period for licenses individuals (from \$220 to \$200). This fee reduction is possible due to a 45% increase in real estate license counts between 2004 and 2005. The possibility of a future decrease in license counts has also been factored into the fee reduction. The fee-fund balance has been rising for two to three years; and the fund balance currently remains at \$2.3 million.

MOTION: **Senator Compton** made the motion and **Senator Malepeai** seconded to approve Rule Docket Number 33-0101-0401. The motion carried with a Voice Vote.

DOCKET NO.
33-0101-0502

Rules of the Idaho Real Estate Commission

This is also a pending fee rule which will reduce the licensing fee by \$20 per bi-annual licensing period for licenses individuals (from \$200 to \$180) and by \$50 per licensing period for licenses business entities (from \$100 to \$50). This rule has proceeded as a proposed and now pending rule, without an effective date for lowering the fee.

Ms. Jones requested that the committee approve this rule with a retroactive effective date of October 1, 2005, and cited Idaho Code Section 67-52254(5)(a) as the authority allowing the committee to approve this action.

MOTION: **Senator Compton** made the motion and **Senator Malepeai** seconded to approve Rule Docket Number 33-0101-0502 with a retroactive effective date of October 1, 2005. The motion carried with a Voice Vote.

Vice Chairman Coiner then recognized **Marilyn Chastain, Securities Bureau Chief for the Department of Finance**, to address the committee regarding Rule Docket Number 12-0108-0501.

**DOCKET NO.
12-0108-0501**

Rules Pursuant to Uniform Securities Act

This is a pending rule to enact legislation passed in 2004. The rules changes primarily address "housekeeping" issues involved with the legislation and there has been no opposition received with regard to these rules. Changes include amending the verbiage to clarify registration and documentation required for broker-dealers, who is allowed to act as an issuer/agent, and clarifies that the Idaho rules are the same under Idaho law and federal law. The rules also allow the Department of Finance to extend the effective date of licensing by 45 days to provide additional time for completion of the license approval process.

MOTION:

Senator Compton made the motion and **Senator Werk** seconded to approve Rule Docket Number 12-0108-0501. The motion carried with a Voice Vote.

Vice Chairman Coiner then recognized **Michael Larsen, Consumer Finance Bureau Chief for the Department of Finance**, to address the committee regarding Rule Docket Number 12-0110-0501.

**DOCKET NO.
12-0110-0501**

Rules Pursuant to the Idaho Residential Mortgage Practices Act

This is a pending fee rule that will impose a fee of \$250, per course, for the review of applications submitted by prospective continuing education providers for the accreditation of course material. The rule will also impose a \$25 fee for the examination of records which evidence the completion of continuing professional education courses provided by presumptively accredited continuing education providers.

In 2004 the Idaho Legislature adopted significant, industry-driven amendments to the Residential Mortgage Practices Act to require licensing of individual mortgage loan originators. This statute was also amended to require continuing education courses for these licensees. The Department of Finance has worked closely with industry and the Mortgage Advisory Board in the development of these rules. These pending fee rules have been through the negotiated rulemaking process, and there has been no opposition to these rules.

MOTION:

Senator Malepeai made the motion and **Senator Broadsword** seconded to approve Rule Docket Number 12-0110-0501. The motion carried with a Voice Vote.

Vice Chairman Coiner recognized **Stephen Keys, Bureau Chief, Division of Building Safety**, to address the committee regarding Rule Docket Numbers 07-0501-0501, 07-0701-0501 and 07-0701-0502.

**DOCKET NO.
07-0501-0501**

Rules of the Public Works Contractors License Board

This is a pending rule that will permit public works contractors seeking licensing class upgrades to qualify by demonstrating satisfactory recent work experience in the upper range of their current license bid limit. This rule will eliminate existing provisions for allowing applicants for public works licensing to use indemnification as a means to satisfy minimum financial requirements for licensure. These rules were put forth by the Public Works Contracting Licensing Board, and the bureau received no negative comments regarding these rules.

During discussion, Mr. Keys provided clarification of the minimum financial requirements for licensure, and explained that in the past applicants have been required to demonstrate completion of work over the current license amount in order to qualify. However, given that most of the work is public only, the Board decided this rule change would be beneficial.

Senator Compton made the motion and **Senator Broadword** seconded to approve Rule Docket Number 07-0501-0501, with the stipulation that a typographical error be corrected as follows:

The text of Docket 07-0501-0501, Section 110.01.(g), second and last sentence is to be corrected to read, "The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed." (Changes "...not less than..." to read "...not less than...")

The motion carried with a Voice Vote.

**DOCKET NO.
07-0701-0501**

Rules Governing Installation of Heating, Ventilation, and Air Conditioning (HVAC) Systems

This rule clarifies the building codes pertaining to heating, ventilation, and air conditioning (HVAC) installations and provides consistency between statutes and rules for purposes of enforcement. This rule was promulgated by the HVAC Board. The rule also establishes requirements for specialty HVAC journeyman certification and the requirements for apprentice and specialty apprentice registration. There has been no opposition with regard to this rule, and no comments have been received regarding this rule.

MOTION:

Senator Werk made the motion and **Senator Broadword** seconded to approve Rule Docket Number 07-0701-0501. The motion carried with a Voice Vote.

**DOCKET NO.
07-0701-0502**

Rules Governing Installation of Heating, Ventilation, and Air Conditioning (HVAC) Systems

This rule was also promulgated by the HVAC Board. This rule change will establish criteria for issuance of a specialty journeyman certificate of competency to include approved educational programs and on the job experience. The rule changes the experience requirements for a hearth specialty journeyman certificate and specifies the education and examination requirements for this certifications. The rule also eliminates alternate requirements that were part of a previous "grandfathering"

requirement. There has been no opposition to these rules.

MOTION: **Senator Compton** made the motion and **Senator Malepeai** seconded to approve Rule Docket Number 07-0701-0502. The motion carried with a Voice Vote.

Vice Chairman Coiner then recognized **Jack Rayne, Building Bureau Chief, Division of Building Safety**, to address Rule Docket Numbers 07-0301-04502, 07-0301-0501, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501 and 07-0308-0501. **Mr. Rayne's** testimony is included in these minutes as Attachment #3.

**DOCKET NO.
07-0301-0502**

Rules of Building Safety - General (Chapter Rewrite)

This rule is a combined chapter rewrite and fee rule, which increases the fee charged for processing and issuance of modular building insignia tags to out-of-state manufacturers (who are not otherwise required to pay Idaho building permit fees) from \$25 to \$100.

The rewrite consolidates all pertinent provisions contained within the six sets of rule chapters considered for repeal under pending Rule Docket Numbers 07-0301-0501, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501 and 07-0308-0501; and, this consolidation will replace these Rule Dockets and provide a single, more user-friendly Rule chapter.

Mr. Rayne requested that if the rewrite (Docket Number 07-0303-0502) is not approved by the committee, for any reason, that the six chapters recommended for repeal also be disapproved.

Senator Broadsword commented that this rule was not subjected to negotiated rulemaking, although it was discussed at public meetings. She asked if there was any comment or opposition presented at the public hearings.

Mr. Rayne advised that the proposed rules were promulgated through the Building Code Board, and specifically addresses the insignia tag fee. This \$25 fee is inadequate to cover the time and effort involved with issuing these tags, and an increase to \$100 is deemed necessary.

MOTION: **Senator Werk** made the motion and **Senator Broadsword** seconded to approve Rule Docket Number 07-0301-0502. The motion carried with a Voice Vote.

**DOCKET NOS.
07-0301-0501
07-0302-0501
07-0303-0501
07-0305-0501
07-0306-0501
07-0308-0501**

Vice Chairman Coiner suggested to the committee that the remaining six chapter repeals (Rule Docket Numbers 07-0301-0501, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501 and 07-0308-0501) be approved as a single motion.

All members were agreeable to the action to consolidate all of the chapter repeals into a single motion.

MOTION: **Senator Compton** made the motion and **Senator Broadsword** seconded to approve the six chapter repeals, Rule Docket Numbers 07-

0301-0501, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501
and 07-0308-0501. The motion carried with a Voice Vote.

ADJOURNMENT: The meeting adjourned at 2:20 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

ATTACHMENT #1

**Testimony of David Curtis, PE, Executive Director,
Board of Professional Engineers & Land Surveyors
Rules Review - Senate Commerce & Human Resources Committee
Tuesday - January 24, 2006**

Testimony before the Senate Commerce and Human Resources Committee on
Administrative Rule Docket No. 10-0101-0501

Mr. Chairman and Members of the Committee, my name is Dave Curtis, and I am Executive Director of the Board of Registration of Professional Engineers and Professional Land Surveyors. I am here to present the Pending Rule amendments to the Board's Rules of Procedure which begin on page 206 of your 2006 Pending Rule Book.

The Board followed the Negotiated Rule Making route for these rules by publication of notice in July of 2005. A public meeting was held, but no comments were received either in writing or verbally. The Board then published a Notice of Proposed Rule in September of 2005 and again we received no comments. Finally, the Board published a Notice of Rulemaking - Adoption of Pending Rule in November of 2005. Again, no comments were received.

The first pending rule amendment is at the top of page 208 of your Pending Rule book. In March of 2005 we relocated our office from Orchard Street to Overland Road in Boise. This necessitated a change in the Administrative Rules for our address as well as our telephone numbers.

The second pending rule amendment is in the last paragraph of page 211 of your Pending Rule book. It has to do with proctoring of examinations for other jurisdictions. In the past, the Board administered all the licensing and certification examinations. However, due to staff availability and security concerns, beginning approximately two years ago, the Board began contracting with a private entity for exam administration services. Because of the logistical and administrative difficulties associated with proctoring examinations for candidates seeking licensure in other states, and for security reasons, the Board would like to discontinue proctoring of examinations except for state-specific examinations for professional land surveyors. Those state-specific examinations are only two hours in duration as opposed to eight hours for the others, and are still administered by Board staff.

I would be happy to answer any questions you may have regarding this docket.

ATTACHMENT #2

**Testimony of Donna Jones, Executive Director, Idaho Real Estate Commission
Rules Review - Senate Commerce & Human Resources Committee
Tuesday - January 24, 2006**

Thank you Mr. Chairman, Members of the Committee:

My name is Donna Jones. I am the Executive Director of the Idaho Real Estate Commission. I am here today to present the Commission's pending and Fee Rules.

We have 3 separate dockets — all Pending Rules. Two of these are Fee Rules — each one having lowered the licensing fees charged by the Commission. We will be requesting that you give the most recent fee rule a retroactive effective date of October 1, 2005.

I will begin with Docket Number 33.0101.05012 – This is a pending non-fee rule. This is found at page 550 of your Pending Rules Review notebook. This Rule was initially adopted as a Temporary Rule, inasmuch as it merely eliminates from the Administrative Code, certain Continuing Education requirements that have now been codified in our License Law statute as a result of S 1010, which amended the Real Estate License Law, Chapter 20, Title 54. This amendment went into effect July 1, 2005

As you will note on pages 352 & 353 of your notebooks, what this rulemaking does is simply delete text. The deleted text now appears in Statute:

Rules 400 and 401 are now codified at Section 54-2023(e), as (i) and (ii).
Rules 403 — 406 have been codified at Section 54-2023(6), (7), and (8).

Next I will address the Commission's 2 fee rules — Dockets 33.0101.0401, and 33.0101.0502. These Rules are found in your Pending Fee Rules Review book at pages 57—62. Both Rules LOWERED the licensing fees charged by the Commission. These fee reduction rules were adopted by the Commission sequentially.

A bit of background might be helpful. The Commission is one of Idaho's Self-governing agencies. Our operations are funded solely from the fees we assesses Idaho real estate licensees.

In 2003, the Commission's revenues began increasing at a significant rate. In the meantime, the Commission had been successfully streamlining its internal administrative processes, downsizing its staff, and reducing its operating expenses. So, by early 2004, the Commission had a free-fund balance in excess of \$1 million, and that continued to grow.

In response, the Commissioners voted to reduce Licensing Fees by \$20 per licensee. This is docket 33.0101.0401 (pages 57-59 of the Fee Rules book). The Commission requested, and was granted, Governor Approval to proceed as a Temporary Rule, and that fee reduction went into effect immediately, with an effective date of April 1, 2004.

ATTACHMENT #2

Page 2

Subsequent to that fee reduction in April 2004, our revenues continued to increase. Meanwhile the Commission kept its operation expenses steady. The result, of course, is that we experienced a continued growth in the Commission's free-fund balance. This balance now exceeds \$2 million.

In response, the Commission voted to again reduce the licensing fee by \$20 per individual. Additionally, the Commission decided to lower the fee for licensed business entities, from \$100 to \$50. This Fee Rule is Docket number 33.0101.0502 (beginning on page 60 of your Fee Rule notebook).

The Commission desired that, given the excessive free-fund balance, this reduction should go into effect immediately, on October 1, 2005.

However, this time the Governor declined to approve the Rule as a Temporary Rule. This rule has proceeded as a proposed and now pending rule, without an effective date for lowering the fee. The Commission, therefore, requests that this Final Rule be given an effective of October 1, 2005, instead of the July 1, 2006 default date. A retroactive effective date is authorized by Idaho Code I Code Section 67-52254(5)(a).

In sum, the Commission respectfully requests that this Committee recommend that each of our dockets be approved as Final Rules, and that docket 33.0101.0502 be given an effective date of October 1, 2005.

With that, I will stand for any questions of the Committee. Mr. Chairman, Members of the Committee, Thank you.

In sum, the Commission respectfully requests that this Committee recommend that each of our dockets be approved as Final Rules, and that docket 33.0101.0502 be given an effective date of October 1, 2005.

With that, I will stand for any questions of the Committee. Mr. Chairman, Members of the Committee, Thank you.

ATTACHMENT #3

Testimony of Jack Rayne, Bureau Chief, Division of Building Safety
Rules Review - Senate Commerce & Human Resources Committee
Tuesday - January 24, 2006

Mr. Chairman, Members of the Committee, I am Jack Rayne, Building Bureau Chief for the Division of Building Safety. I am here today to present proposed and pending rules as a housekeeping effort while requesting an increase in insignia fees from \$25.00 to \$100.00 for those out-of-state modular building manufacturers who are otherwise not required to pay building permit fees to the Division upon requesting Idaho insignia tags. This \$100.00 insignia fee will cover increased processing costs incurred by the division to generate tags.

The proposed rule under fee rule docket #07-0301-0502 (page 13) is a combined chapter rewrite and a fee rule which consolidates all pertinent provisions contained within six existing rule chapters considered for repeal under pending rule docket numbers 07-0301-0501, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501 and 07-0308-0501 found on pages 24-36. The new proposed rule is intended to provide a consolidation of the pertinent provisions previously contained within the existing six rule chapters intended for repeal action into a single more user friendly rule chapter.

I would request that if the chapter rewrite (docket no. 07-0301-0502) is not approved by the committee for whatever reason, that the six chapters intended for repeal (under pending rule docket numbers 07-0301-0501 through 07-0308-0501) also be disapproved.

Thank you for your consideration.

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** January 26, 2006
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Goedde, Compton, Broadsword, Werk
- MEMBERS ABSENT/ EXCUSED:** Senators Malepeai, Stegner and Cameron
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:34 PM.
- RS 15665** **Senator Goedde** addressed the committee regarding this legislation to delete reference in Section 31-814, Idaho Code, to capping the amount of funds a self-insurance risk program uses to insure counties against liability claims at ten million dollars. Capping the amount of surplus or reserves of a self insurance pool is contrary to reasonable insurance practices.
- MOTION:** **Senator Werk** made the motion and **Senator Broadsword** seconded to send **RS 15665** to print. The motion carried with a voice vote.
- RS 15465** In the absence of **Senator Stegner**, **Chairman Andreason** presented the committee with this proposed legislation to direct the Health Care Task Force to be the legislative oversight committee that monitors the state High Risk Reinsurance Pool. The original High Risk Pool legislation was passed in 2000 and called for the appointment of an oversight committee. This bill assigns that responsibility to the Health Care Task Force and eliminates the need to create a separate committee.
- Senator Compton** advised that this piece of legislation is one of the bills now presented to the Legislature which were promulgated by the Health Care Task Force.
- During discussion, **Senator Broadsword** asked about the status of the oversight committee for the High Risk Reinsurance Pool, and whether the committee was ever formed. **Senator Goedde** stated that the oversight task force was never formed; and the oversight responsibility for the High Risk Reinsurance Pool had been performed by another health insurance task force which has now been combined into the Health Care Task Force.
- MOTION:** **Senator Compton** then made the motion and **Senator Goedde** seconded to send **RS 15465** to print. The motion carried with a voice vote.

Chairman Andreason then turned the meeting over to **Vice Chairman Coiner** for Rules Review.

Vice Chairman Coiner introduced **Bob Fick, Idaho Department of Commerce & Labor**, to present Rule Dockets 09-0104-0501; 09-0104-0502; 09-0104-0503; 09-0106-0501; 09-0106-0502; 09-0130-0501; 09-0130-0502; 09-0130-0503; 09-0130-0504; 09-0130-0505; 09-0130-0506; 09-0135-0507; 09-0135-0501; 09-0135-0502; 09-0135-0503; 09-0135-0504; 09-0135-0505; 09-0135-0506; 09-0135-0507; 09-0135-0508; 09-0135-0509; 09-0201-0501; and 09-0203-0501.

Mr. Fick advised that all of these are pending rules which have not been subject to negotiated rule making but, instead, have been subjected to public review, with no negative comments or opposition received.

**DOCKET NO.
09-0104-0501**

Rules of the Benefit Payment Control Bureau

This rule reflects housekeeping changes and changes in response to the reorganization of the department's tax and benefit overpayment bureaus. Changes have been made to reflect the recent re-organization of the department (name change, address and contact information).

MOTION:

Senator Broadsword made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0104-0501. The motion carried with a voice vote.

**DOCKET NO.
09-0104-0502**

Rules of the Benefit Payment Control Bureau

This rule will remove the provision allowing offset to occur on overpayments that resulted from a fraud determination, making the rule consistent with the provisions of Idaho Code. The change is necessary due to the change in eligibility criteria contained in Section 72-1366(12), Idaho Code, which makes fraud claimants ineligible to claim Unemployment Insurance benefits. Without the change to this rule, there would be an inconsistency between the eligibility criteria and the permitted recovery mechanisms.

MOTION:

Senator Compton made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0104-0502. The motion carried with a voice vote.

**DOCKET NO.
09-0104-0503**

Rules of the Benefit Payment Control Bureau

This rule sets the minimum of less than \$5.00 for forgiveness in amounts owed and establishes order of priority in how money, in the case of partial payments, will be allocated to the amounts owed. Interest will be paid first, then penalties, then the fraud overpayment. If this rule is not promulgated claimants will not know how their payments are being applied.

MOTION:

Senator Werk made the motion and **Senator Goedde** seconded to approve Rule Docket 09-0104-0503. The motion carried with a voice vote.

**DOCKET NO.
09-0106-0501**

Rules of the Appeals Bureau

This rule provides guidelines to examiners for the inclusion and exclusion of evidence in an appeals hearing, where previously there had been no existing guidelines. All parties to hearings at the department's Appeals

Bureau would benefit from this rule, which clearly sets out the evidentiary standard that applies to the hearing. This would be of particular assistance to parties that are not represented by an attorney.

MOTION: **Senator Broadsword** made the motion and **Senator Compton** seconded to approve Rule Docket 09-0106-0501. The motion carried with a voice vote.

DOCKET NO.
09-0106-0502 **Rules of the Appeals Bureau**
This rule attempts to streamline procedures in cases where no party appears to present additional evidence at an appeal hearing. This rule would allow the examiner to make a decision based upon the existing record and specifies what that record would include.

MOTION: **Senator Werk** made the motion and **Senator Broadsword** seconded to approve Rule Docket 09-0106-0502. The motion carried with a voice vote.

DOCKET NO.
09-0130-0501 **Rules of the Benefits Bureau**
This rule is a housekeeping change to rename this chapter of the Department's rules to "Unemployment Insurance Benefits Administration Rules."

MOTION: **Senator Broadsword** made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0130-0501. The motion carried with a voice vote.

DOCKET NO.
09-0130-0502 **Rules of the Benefits Bureau**
This rule amends current code to provide that interstate claimants must register for work in the State in which they reside, and clearly states that residents must register for work and report on their work-seeking activity.

MOTION: **Senator Broadsword** made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0130-0502. The motion carried with a voice vote.

DOCKET NO.
09-0130-0503 **Rules of the Benefits Bureau**
This rule specifies that Section 67-4702, Idaho Code, is the source of the Department's rule making authority. References to "Job Service" would be changed to "local office" or "Department." The rule also requires only those claimants who have not yet registered to register for work with a local office, and "length of unemployment" would be deleted as one of the criteria for determining a claimant's category of work-seeking activity. This would bring the rules into compliance with Federal requirements which state that a claimant cannot be forced to accept employment at a wage less than that of the claimant's previous employment.

MOTION: **Senator Werk** made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0130-0503. The motion carried with a voice vote.

DOCKET NO.
09-0130-0504 **Rules of the Benefits Bureau**
This rule allows the cross-matching of identification information for claimants with Department of Motor Vehicles and Social Security Administration. It adds a paragraph providing that if a claimant's

identifying data does not match data provided by another public entity for identity verification purposes, the claimant will have two business days if notified by phone, or five business days if notified by mail, to provide proof of identity before benefits may be denied.

MOTION: **Senator Compton** made the motion and **Senator Werk** seconded to approve Rule Docket 09-0130-0504. The motion carried with a voice vote.

DOCKET NO.
09-0130-0505 **Rules of the Benefits Bureau**
This rule addresses the current practice of including state and local government and non-profit wages in the calculation of the average wage of the total wages paid in covered employment.

MOTION: **Senator Goedde** made the motion and **Senator Broadsword** seconded to approve Rule Docket 09-0130-0505. The motion carried with a voice vote.

DOCKET NO.
09-0130-0506 **Rules of the Benefits Bureau**
This rule was promulgated by last year's legislation (H 4) and amends language to provide that a claimant who has been found ineligible for benefits must re-establish eligibility by receiving wages for bonafide work of at least 14 times the weekly benefit amount, rather than 12 times the weekly benefit amount.

MOTION: **Senator Compton** made the motion and **Senator Broadsword** seconded to approve Rule Docket 09-0130-0506. The motion carried with a voice vote.

DOCKET NO.
09-0130-0507 **Rules of the Benefits Bureau**
This rule was also promulgated by last year's legislation (H 4), which changed the exception to the personal eligibility conditions for a benefit claimant with regard to compelling circumstances. The rule describes what a "compelling reason" would be for a claimant's inability to accept work.

MOTION: **Senator Broadsword** made the motion and **Senator Goedde** seconded to approve Rule Docket 09-0130-0507. The motion carried with a voice vote.

DOCKET NO.
09-0135-0501 **Rules of the Employer Accounts Bureau**
This rule will include the ability to compromise the civil penalty provisions of Section 72-1372, Idaho Code, which is effective July 1, 2005. Without this change, there would be no ability for the Director to compromise civil penalties or provide waivers for employers who otherwise meet the criteria for waiver or compromise of a penalty. This change provides uniformity in the application of the compromise provision.

MOTION: **Senator Werk** made the motion and **Senator Broadsword** seconded to approve Rule Docket 09-0135-0501. The motion carried with a voice vote.

DOCKET NO.
09-0135-0502 **Rules of the Employer Accounts Bureau**

This rule will change the subsection language to better reflect the subject matter of the rule and establish the time restrictions for professional employer organizations (PEOs) to apply for experience rate transfers from their clients. Without the change, professional employer organizations (PEOs) might be unaware that the time frame for experience rate transfer applications of 180 days applies to them. This change will bring PEOs under the same guidelines already established for other entities. The change in the rule will require joint application by the PEO and the employer/client in order for the employer/client to be included within the PEO's blended experience rate. This will give the Department an opportunity to evaluate each request to ensure that it is consistent with the requirements of Section 72-1351A, Idaho Code.

During questions and discussion, **Bob Fick** introduced **Don Arnold, Department of Commerce & Labor**, for further explanation regarding the blending of Unemployment Insurance tax rates for PEO and employer/clients. He explained how the joint application process will allow the Department to better track this information and make any required transfers or blending of rates as required.

Mark Whitworth, Assistant Director, Department of Commerce & Labor, addressed the committee regarding the history and implementation of the "blended" experience ratings and the problems that have arisen due to employee layoffs which negatively affect these ratings. This rule is an attempt to insure that rate transfers are conducted by mutual consent of both the PEO and employer/clients.

MOTION: **Senator Werk** made the motion and **Senator Goedde** seconded to approve Rule Docket 09-0135-0502. The motion carried with a voice vote.

DOCKET NO. 09-0135-0503 **Rules of the Employer Accounts Bureau**
This rule reflects housekeeping changes and name changes in response to the reorganization of the Department's tax and benefit overpayment bureaus. The rule reflects the name change for the bureaus and changes statutory references which are no longer valid and non-substantive housekeeping changes.

MOTION: **Senator Compton** made the motion and **Senator Werk** seconded to approve Rule Docket 09-0135-0503. The motion carried with a voice vote.

DOCKET NO. 09-0135-0504 **Rules of the Employer Accounts Bureau**
This rule sets forth the priority collection of interest on civil penalties and clarifies that interest on civil penalties, and civil penalties imposed, will be paid after tax interest, tax penalty, and tax have been paid for each calendar year. The rule is being changed to provide guidance and notice to the public regarding the order in which payments received by the Department will be applied to taxes owed, tax interest, tax penalty and civil penalties assessed, and is effective July 1, 2005.

MOTION: **Senator Goedde** made the motion and **Senator Werk** seconded to

approve Rule Docket 09-0135-0504. The motion carried with a voice vote.

**DOCKET NO.
09-0135-0505**

Rules of the Employer Accounts Bureau

This rule adds a definition for casual labor and clarifies the application of the casual labor exemption. The definition is being added to conform to federal unemployment tax provisions which exclude corporations from unemployment tax exemption for casual labor.

MOTION:

Senator Werk made the motion and **Senator Compton** seconded to approve Rule Docket 09-0135-0505. The motion carried with a voice vote.

**DOCKET NO.
09-0135-0506**

Rules of the Employer Accounts Bureau

This rule will include online registration as an additional method for employer business registration reporting. The online Idaho Business Registration system was deployed in 2004 as an efficient and alternative method for businesses to register with the Department. This change reflects this additional method of registration of benefit to Idaho employers.

MOTION:

Senator Broadsword made the motion and **Senator Werk** seconded to approve Rule Docket 09-0135-0506. The motion carried with a voice vote.

**DOCKET NO.
09-0135-0507**

Rules of the Employer Accounts Bureau

This rule provides clear authority for the Department's request for employer records for a variety of statutorily required investigations, including new federal requirements to perform SUTA (State Unemployment Tax Act) dumping investigations. (SUTA dumping is a tax evasion scheme to creatively manipulate and obtain low Unemployment Insurance tax rates.)

MOTION:

Senator Goedde made the motion and **Senator Werk** seconded to approve Rule Docket 09-0135-0507. The motion carried with a voice vote.

**DOCKET NO.
09-0135-0508**

Rules of the Employer Accounts Bureau

This rule adopts mandatory federal guidelines for SUTA dumping investigations and clarifies the calculation of partial experience rate transfers.

MOTION:

Senator Goedde made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0135-0508. The motion carried with a voice vote.

**DOCKET NO.
09-0135-0509**

Rules of the Employer Accounts Bureau

This rule is to comply with an Idaho Supreme Court decision issued on June 21, 2005, Excell Construction v. Idaho Department of Commerce & Labor. The rule eliminates from consideration on the "direction and control" test for independent contractors whether the putative employer can terminate the worker without contractual liability. The Court invalidated this factor in the footnote of page nine of the opinion.

MOTION:

Senator Werk made the motion and **Senator Broadsword** seconded to

approve Rule Docket 09-0135-0509. The motion carried with a voice vote.

**DOCKET NO.
09-0201-0501**

Idaho Community Development Block Grant Program

This is a compilation of rule changes covering about 40 pages and several sections. The changes eliminate inaccurate or redundant language and application requirements, change the point values for ranking applications, remove biases against some types of project applications, encourage applications for preferred types of projects, allow for teleconferencing and the electronic submission of information, and require applicants to follow state and federal procurement standards. Some typographical, transcriptional, and/or clerical corrections have also been made to the proposed/temporary rule.

Senator Broadsword asked whether the point rating changes would make it easier for small, rural areas to obtain grants. **Bob Fick** introduced **Wendi Secrist, Economic & Community Development, Idaho Department of Commerce & Labor**, to address the committee.

Ms. Secrist advised that changing the points would allow smaller projects from smaller communities to compete on an equal basis with larger projects. This would also allow communities with projects that are funded from other entities to allocate funding as needed, and without penalty for engineering services or property acquisition. Discussion followed regarding designation of "Gem" status and community requirements.

MOTION:

Senator Compton made the motion and **Senator Broadsword** seconded to approve Rule Docket 09-0201-0501. The motion carried with a voice vote.

**DOCKET NO.
09-0203-0501**

Rules of the Idaho Regional Travel and Convention Grant Program

This rule makes changes to the website address listed in IDAPA 09.02.03.204.08.f to the new website address for this grant program and corrects clerical errors.

MOTION:

Senator Werk made the motion and **Senator Andreason** seconded to approve Rule Docket 09-0203-0501. The motion carried with a voice vote.

ADJOURNMENT: The meeting was adjourned at 2:29 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 31, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

**GUBERNATORIAL
APPOINTMENT:** **Chairman Andreason** introduced **Mr. Jeff Cilek**, Gubernatorial Appointee to the Public Employees Retirement System of Idaho (PERSI). Mr. Cilek spoke to the committee regarding his qualifications with working as Executive Director of the Health Foundation at St. Luke's Medical Center, and previous positions as Vice President of the Peregrine Fund and Legislative Director and Staff Director of the U.S. Senate Interior Appropriations Committee.

Senator Werk commented on the importance of the appointment to the PERSI Board. **Chairman Andreason** thanked **Mr. Cilek** for appearing before the committee and advised that the committee's decision would be made at the next meeting.

RS 15753 **Senator Goedde** addressed the committee regarding this legislation to amend Chapter 211, Laws of 1990, to clarify that the provisions of the in-service disability provisions of that act shall apply to all paid firemen hired between July 1, 1978 and October 1, 1980, who were incapacitated in the performance of duty and whose retirement date was prior to the April 3, 1990 effective date of that act. This will allow retroactive payments to a single firefighter in that class of employees who was inadvertently omitted from this benefit due to disability.

MOTION : **Senator Cameron** made a motion and Senator Broadsword seconded to send **RS 15753** to print. The motion carried with a voice vote.

S 1309 **State Employees' Compensation Plan**

Chairman Andreason introduced **Matt Freeman** to present this bill to the committee. **Mr. Freeman** explained that this legislation repeals, amends and adds to existing law to increase the maximum award that

may be granted to certain non-classified officers and employees for meritorious service and for suggestions result. This is a change in that there is currently not much in the code in terms of defining the state's plan for employee compensation. This legislation is the result of the Joint Interim Committee on Changes in Employee Compensation. There was considerable debate in this committee regarding the time frame for moving the pay range toward the market value average. Although the time frame remains general and not specifically defined, pay ranges will still move toward market average.

Chairman Andreason said **Senator Kelly** presented a Minority Report to Joint Finance-Appropriations Committee (JFAC) and Leadership with regard to these issues. **Mr. Freeman** advised, and **Senator Andreason** confirmed, that the Minority Report indicated that they would like to see the 5-year deadline in code.

Mr. Freeman explained the new section of code establishes four specific items that have to be addressed by the administrator of the Division of Human Resources; Paragraph A includes market-related changes that are necessary to address system-wide structure adjustments to stay competitive; Paragraph B includes market related changes necessary to address specific occupational inequities; Paragraph C includes a merits increase component to recognize award employees; and Paragraph D includes changes to employee benefit packages.

Senator Cameron asked if there are any priorities with these four issues. **Mr. Freeman** explained that the discretion would be with the decision makers. **Chairman Andreason** said all four of these issues should be taken into consideration by the Governor and the Legislature.

Mr. Freeman then discussed the caps for bonuses, and said that the State Controller's Office was asked to establish specific pay codes to insure accurate reporting.

Senator Stegner stated that he is very proud of this legislation, and the importance of page 14, lines 35 through 45 to this bill. **Chairman Andreason** followed with the comment that the next paragraph (3) is the backbone of the entire state employee's compensation issue.

Senator Coiner and **Senator Compton** both stated their satisfaction with the resulting legislation to address problems in recruitment and retention of state employees. **Senator Compton** stated that this legislation will encourage hiring of good employees and help to bring the State of Idaho from "good" to "great."

Chairman Andreason thanked the members of the Human Resources Task Force which assisted the Committee on Employee Compensation in this legislative effort. He recognized and thanked **Tim O'Leary**, Idaho State Police; **Jane Buser**, Boise State University; **Mary Harker**, Idaho Transportation Department and **Diana Jansen**, Department of Health and Welfare, for all of their hard work as task force members.

Tim O’Leary, Human Resources Manager, Idaho State Police, said it was a pleasure to work with the committee and it was his hope that everyone would support this bill. **Mr. O’Leary** said that **S 1309** will give the department directors a great deal of authority and the responsibility of having to report their actions to JFAC annually.

Ann Heilman, Administrator for Division of Human Resources, then addressed the committee in opposition to **S 1309**. **Ms. Heilman** said that although she agreed with much that was said, she believes the bill would pose some very serious consequences that actually counter what comprises a good state system compensation package. She addressed some technical issues of specific language, and her concern with the potential to eliminate all salary savings.

Ms. Heilman stated that there is a problem with phasing in **S 1309** where there are references to “permanent non-classified employees.” As non-classified employees do not retain permanent status, but are employed “at will,” this language is problematic.

Chairman Andreason asked **Ms. Heilman** why these issues were only now being mentioned, and whether previous opportunities had been available for her to bring these issues to the attention of the Interim Committee Co-Chairs, Human Resources Task Members, or to Matt Freeman during drafting of the legislation.

Senator Cameron asked **Ms. Heilman** if she had made any attempts to express her concerns to staff or to **Chairman Andreason**. **Ms. Heilman** advised that she has had many conversations with **Matt Freeman** and **Jeff Youtz** regarding her concerns.

Senator Cameron made the suggestion that the committee refrain from taking action on **S 1309** at this time and allow **Chairman Andreason**, **Senator Stegner**, and others involved to meet with **Mr. Freeman** and **Ms. Heilman** for an opportunity to discuss and resolve her issues of concern.

Chairman Andreason advised that the committee did not have the time or inclination today to review all of the many points **Ms. Heilman** wished to cover. **Chairman Andreason** stated that the issues presented by **Ms. Heilman** needed to be reviewed and addressed, and the legislation would be rescheduled for discussion at a future committee meeting.

Senator Compton expressed his frustration and confusion as to why the Division of Human Resources would state there was not enough time to make suggestions or voice concerns. **Senator Compton** requested it be included in the record that the Division of Human Resources was present at all of the meetings of the Interim CEC Committee, and he believes that there was ample time for the Division of Human Resources to participate in the process as the legislation was drafted and to voice any concerns regarding the bill. **Senator Compton** stated that “the action of the Division of Human Resources in waiting until today’s meeting to bring these issues before the

committee felt like getting a bomb – a hand grenade – rolled under the table” and noted this is unfortunate and never should have happened.

Ms. Heilman stated it was not her intention to side track **S 1309**, but she is concerned that there was an enormous amount of input from state agencies, but not the same sort of interaction that would have occurred during a normal CEC meeting. **Ms. Heilman** said it’s very hard to have “all of the little details” addressed appropriately until the opportunity is provided to “study it line-by-line.”

Chairman Andreason interrupted Ms. Heilman and acknowledged that the committee is aware of that fact; the committee is comprised of experienced people with experienced staff, and this meeting was not the time or place to do what she was talking about.

Ms. Heilman apologized for the frustration and said that “the committee’s hurry-up attitude right before Christmas to put this all in one bill” did not provide any opportunity to discuss these issues. She recognizes the work that has been done and acknowledged that the purpose and the main pieces of this bill include some tremendous improvements.

Chairman Andreason advised that **Ms. Heilman’s** issues would be presented to members of the Interim CEC Committee, staff, and the Human Resources Task Force; the issues would be resolved, and the legislation placed back on the agenda as soon as possible.

Due to time constraints, **Chairman Andreason** advised that the remaining agenda items would be deferred until the next meeting on Thursday, February 2, 2006.

Senator Goedde requested that **Chairman Andreason** allow testimony by **Mike Taylor**, State Relations Director for the National Council on Compensation Insurance, regarding Industrial Commission Rule Docket 17-0208-0501. **Mr. Taylor** is from Portland, Oregon, and is attending the meeting today specifically to provide information to the committee regarding this Temporary Rule Docket; he will not be available to attend the meeting on Thursday.

**DOCKET NO.
17-0208-0501**

Industrial Commission – Miscellaneous Provisions

Senator Goedde introduced **Mike Taylor**, State Relations Director for the National Council on Compensation Insurance (NCCI) based in Portland, Oregon. **Senator Goedde** posed questions regarding the conversion factors used in the Industrial Commission’s Temporary Rule, and asked Mr. Taylor for an estimate of what the use of those conversion factors would do to Worker’s Compensation rates.

Mr. Taylor reported that after analyzing the proposal and looking at all the data and factors provided to him by the Industrial Commission, he estimated the cost impact to be “plus point eight-tenths of a percent” (approximately three million dollars).

Senator Andreason asked if **Mr. Taylor** would provide written

documentation of the estimated calculations to the committee. **Mr. Taylor** agreed to provide the full analysis to the committee at a later date.

ADJOURN: There being no further business the meeting was adjourned at 3:00 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 2, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Werk

CONVENED: The Commerce and Human Resources Committee was called to order at 1:32 p.m. by **Chairman Andreason**.

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

MINUTES: **Senator Coiner** moved to approve the January 17, 2006 minutes as printed. **Senator Broadsword** seconded the motion. **Senator Malepeai** moved to approve the January 19, 2006 minutes as printed. **Senator Broadsword** seconded the motion. The motions were carried by **voice vote**.

GUBERNATORIAL APPOINTMENTS: **Chairman Andreason** introduced **Vaughn Heinrich**, Gubernatorial Appointee to the Idaho Endowment Fund Investment Board. **Mr. Heinrich** gave a brief autobiography and fielded questions relating to public lands, logging and fund management. This appointment will be acted upon during the next committee meeting.

Chairman Andreason welcomed **Mike Brassey**, the Gubernatorial Re-appointment to the Idaho Personnel Commission Board (IPCB). **Mr. Brassey** provided a brief outline of his qualifications and stated that this is a continuation of his position as a public servant. The IPCB currently serves as an appellate body and does not have any management responsibility over personnel matters. **Mr. Brassey** outlined some of the Board's accomplishments under his direction. **Mr. Brassey** answered questions regarding the activities of the Board. Action will be taken on this appointment at the next meeting.

Chairman Andreason announced that the committee was ready to take action on the appointment of **Jeff Cilek** to the Public Employees Retirement System of Idaho (PERSI) Board to serve a term commencing July 1, 2005 to July 1, 2010. **Mr. Cilek** appeared at a previous committee meeting.

MOTION: **Senator Coiner** moved to send the appointment of Jeff Cilek to the Public Employees Retirement System of Idaho Board to the Senate floor with the recommendation that the appointment be confirmed by the Senate. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

Chairman Andreason then turned the meeting over to **Vice Chairman Coiner** for continuation of Rules Review .

DOCKET NO.
07-0102-0501

Rules Governing Fees for Electrical Inspections

This is amending a fee rule to establish a \$10 electrical permit and inspection fee for small jobs of less than \$200. The purpose of reducing this fee is to encourage the inspection process for smaller electrical jobs.

Senator Coiner explained that this a rule that had been put on hold and it changed the fee amount for small jobs from \$40 to \$10.

Senator Cameron said that he has had a chance to re-read the bill and now has no objections to proceeding with approval of this rule.

MOTION: **Senator Cameron** moved to accept Rule Docket Number **07-0102-0501**. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Coiner then returned the meeting to **Chairman Andreason** for the consideration of remaining agenda items.

RS 15830

Relating to PERSI and Re-employment to Public Office

Senator Corder explained that this bill allows elected officials to be re-employed, full time, after retirement. There is also a six-month waiting period requirement. If they are elected and receive the full wages of the office, they could elect the PERSI retirement benefits or they could also take the option to be reinstated within PERSI and continue as if they had never left. The fiscal impact is small.

MOTION: **Senator Cameron** moved to send **RS 15830** to print. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1314

Relating to Health Care Task Force

Senator Stegner presented this bill to the committee. The bill appoints the Health Care Task Force (HCTF) as a monitoring committee to receive and consider information about the High Risk Reinsurance Pool and to assess that program as set forth in Section 20, Chapter 472, Laws of 2000.

Senator Compton asked if the HCTF had any statutory authority. **Senator Stegner** responded that they have always existed as an oversight committee. HCTF is reappointed every two years. The HCTF task force goes through the same process for appointment as an interim committee, except that the task force has a life of two years whereas an interim committee is only for one year.

Senator Goedde made a motion to send **S 1314** to the Senate floor with

MOTION: a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1315 **Relating to Counties: To Remove the Cap on Fund Balances for Insurance**

Senator Goedde stated that this bill is designed to remove the statutory cap on surplus funding and he introduced **Michael Kane**, a representative for Idaho Counties Risk Management Program (ICRMP), a high risk insurance pool that provides liability insurance for most of the counties in Idaho. **Mr. Kane** explained that the current law puts a cap on the amount of reserve or surplus funds in the pool, which is contrary to accepted insurance practices. **Mr. Kane** is asking to remove the cap on the reserves.

MOTION: **Senator Compton** made a motion to send **S 1315** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Coiner**. The motion carried by **voice vote**.

H 405 **Workforce Development Training Tax**

Chairman Andreason recognized **Bob Fick**, Communications Manager, Idaho Department of Commerce and Labor. This legislation will extend the sunset clause on the Workforce Development Training Fund (WDTF) for an additional five years to January 1, 2012. The purpose of the fund is to finance training of employee skills for specific opportunities and for upgrading skills of employed workers at risk of being permanently laid off.

MOTION: **Senator Goedde** moved to send **H 405** to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion.

Senator Compton asked if there was a cap on the fund or will there be a need for more funds. **Mr. Fick** responded that the only cap is the \$6,000,000 cap on the fund as required by current law. The fund generally runs oversubscribed. There is no plan to increase the 3% offset. As the economy grows, the number of employees grows; therefore, the amount of the employer contribution grows and the insurance trust increases, and the 3% set aside becomes greater. The motion carried by **voice vote**.

H 406 **Science/Technology Advisory Council**

This legislation will make permanent, by law, a Science/Technology Advisory Council (Council) that will be appointed by the Governor. The Council will provide advice to state, local, federal and private sector agencies and organizations on science and technology interests; support the development and publishing of information on the condition and importance of science and technology to the state's economy; assist with the development and implementation of a state plan for science and technology; and assist with the coordination of stakeholder interests to increase the positive impact of the state's science and technology resources.

Mr. Fick introduced **Karl Tueller**, Director of the Office of Science and Technology, Idaho Department of Commerce and Labor. **Mr. Tueller**

explained that the science and technology segment is the single largest individual segment of Idaho's economy, about 25%. The pay for jobs created in this industry is 90-100 percent higher than the average Idaho salary. The fifteen members of the Council, which includes all three university presidents, are very interested in helping Idaho to grow the technology based economy of the state. Establishing a permanent committee raises the stature and awareness of the Council and will gain the interest of large, medium, and small technology companies.

Senator Compton commented on the rather "spartan" budget and asked for some explanation. **Mr. Tueller** talked to the budget sources and how those monies were spent.

Senator Malepeai was interested in the fact that all three university presidents were on the council and how that happened. **Mr. Tueller** responded that when the Governor first established the Council by executive order, he appointed one of the university presidents to be on the Council. The other two presidents then came to the Governor and requested to be on the Council, and so now all three are members of the Council. They are providing input to the Council, as well as receiving input from the Council, in support of technology efforts.

MOTION: **Senator Coiner** moved to send **H 0406** to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried with a **voice vote**.

ANNOUNCEMENT: **Chairman Andreason** addressed those present regarding the reason for the last minute change in the meeting agenda removing the review of Rule Docket Number 17-0208-0501, Miscellaneous Provisions of the Industrial Commission. The change occurred because of actions taken by the House Commerce & Human Resources Committee at a very late time, and the Industrial Commission was unable to complete their preparation for today's meeting. They will try to be ready in two weeks.

Senator Goedde made some additional comments regarding the rule docket, and stated that he is preparing a letter to **Chairman Andreason** and **Chairman Schaefer** addressing his issues. **Senator Goedde** advised that there is a two-pronged problem with regard to this rule: (1) The conversion factors promulgated by the Industrial Commission are not being readily accepted; and (2) the rule that was proposed is not important to legislation passed last year in H 331. Senator Goedde feels that the Temporary Rule, Docket Number 17-0208-0501, needs to be rejected right away so the Industrial Commission can get on with their work.

ADJOURNMENT: The meeting was adjourned at 2:23 p.m. by **Chairman Andreason**.

Senator John Andreason
Chairman

Olga Cople
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 7, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Stegner

CONVENED: The meeting was called to order by **Chairman Andreason** at 1:34 p.m.

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

MINUTES: **Senator Malepeai** moved to accept the Minutes of January 24, 2006 as written. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

APPOINTMENTS: **Chairman Andreason** introduced **Clarisse Maxwell**, Gubernatorial Appointee to the Idaho Personnel Commission Board. This will be a reappointment for **Ms. Maxwell**. She stated that she enjoyed working on this board and also served in other organizations around the city and enjoyed her community involvement.

Chairman Andreason said the Committee would take action at the next meeting. **Senator Coiner** commended Ms. Maxwell on her involvement with the Idaho Black History Museum and thanked her for her participation in this project.

Chairman Andreason asked for questions or comments from the Committee on the appointment of **Vaughn Heinrich** to the Idaho Endowment Fund Investment Board. **Senator Cameron** moved to send the appointment of **Vaughn Heinrich** to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that the appointment be approved by the Senate. **Senator Coiner** seconded the motion. The motion carried by **voice vote**.

Chairman Andreason asked for questions or comments from the Committee on the appointment of **Mike Brassey** to the Idaho Personnel Commission Board. **Senator Cameron** moved to send the appointment of **Mike Brassey** to the Idaho Personnel Commission Board to the Senate floor with the recommendation that the appointment be approved by the Senate. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

RS 15397C1

Relating to Idaho Real Estate License Law

Donna Jones, Executive Director of the Idaho Real Estate Commission (IREC) presented this bill as the IREC's annual "housekeeping" or "fix-it" bill. This bill will correct inconsistencies and update provisions in Section 54-2004, 2014, 2015, 2018, 2023, 2027, 2033, 2034, and 2036 of **Idaho Code**. RS 15397C1 provides a clear definition of the Business Conduct and Office Operations Course and clarifies that this course is a component of the educational requirement for a broker's license. This bill also emphasizes privacy by allowing students to identify themselves by their real estate license number, if they have one, rather than by social security number. The bill also clarifies the test taking policies of the IREC.

MOTION:

Senator Broadsword moved to send **RS 15397C1** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 15906C2

Relating to Persons in the Military

Senator Stennett presented the bill which will cover a loophole in Section 46-225, **Idaho Code**, where dependents of Idaho National Guard Members could be left without health care insurance during the first 30 days of the guard members deployment. **Chris Brewley**, Idaho National Guard, briefly explained the bill in more detail.

MOTION:

Senator Werk moved to send **RS 15906C2** to print. **Senator Cameron** seconded the motion. **Senator Goedde** urged the sponsor to quantify the cost of this change. **Senator Werk** questioned whether there would be any fiscal impact at all since normally, the state would be covering the cost if that guard member was not activated. The motion carried by **voice vote**.

RS 15601

Relating to Genetic Testing Privacy

Senator Broadsword introduced this bill relating to the privacy act. The purpose of this bill is to ensure the privacy of genetic testing to an individual and to make sure that information will not be used against them by an employer or an insurer.

MOTION:

Senator Goedde moved to send **RS 15601** to print. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

RS 15966

State Employee Compensation Plan

Chairman Andreason welcomed **Matt Freeman** from Legislative Services to address the Committee regarding this bill. This legislation would repeal and re-enact three existing sections of **Idaho Code** to establish a State Employment Compensation Philosophy and Plan that will provide for employees below the state's mid-point market average and shall move them through the pay range toward mid-point market average. The intent of the bill is to help facilitate retention and recruitment of employees.

MOTION:

Senator Broadsword moved to send **RS 15966** to print. **Senator Compton** seconded the motion. **Senator Werk** asked that **Ms. Heilman** address some issues that she had raised when similar legislation was presented. **Ms. Heilman** said that she had worked with **Mr. Freeman** to

address her concerns, and she would let the bill proceed as the Committee desires. The motion carried by **voice vote**.

PRESENTATION: **Department of Insurance: Presentation on Medicare Part “D”**
Genii Hamilton, Idaho State Department of Insurance (ISDI), was the presenter. **Ms. Hamilton** is part of the Senior Health Insurance Benefits Advisory Program (S.H.I.B.A.) which was established to advise Medicare beneficiaries. Before Medicare Part D (drug benefit) was put into effect, S.H.I.B.A. saw the need for educating Medicare beneficiaries. They put together partnerships consisting of various state and federal agencies and other organizations to develop a plan, so that when Medicare Part D went into effect they would be prepared.

The S.H.I.B.A. program alone gave over 275 educational presentations to the public in the last six months. They have set up over 200 sites throughout the state to assist in the enrollment process. By using the Medicaid web tool, S.H.I.B.A. continues to offer services to assist in identifying the best plan and how to find resources that will fill the needs of the Medicare participant. **Ms. Hamilton** emphasized that the Medicare plan is working and it is saving beneficiaries money.

Chairman Andreason asked how those working for the State of Idaho and covered by Blue Cross would be eligible for Part D. **Ms. Hamilton** answered that it was all part of “credible coverage.” Credible means that the coverage has to be as good as the coverage Medicare offers. There was an extensive discussion about the Medicare web tool. This is a valuable tool to assist in determining which of the 44 plans is best for any given beneficiary. Education is a key element for providers, agents, and seniors. S.H.I.B.A. will continue to assist and educate in all of these areas. The location of the “help” sites can be found by calling the 211 CARE line, information is on the aging website, and it is also available at S.H.I.B.A.

Donna Gary from the Idaho Department on Aging asked that legislators support the assistance sites as volunteers and said that it would be a good way to get out and meet people since this was an election year.

Kathleen Allen, Region IV Director for Health and Welfare, is one of the partners working on this project. She offered further information and assistance in answering questions. **Senator Werk** had a generic question, if a senior had a question, would the best response be to have him call the 211 number. **Ms. Hamilton** responded that if they want to enroll in a program they should call 211, if they want information or they are having a problem, they should call the S.H.I.B.A. program.

Chairman Andreason thanked **Ms. Hamilton** for her presentation.

ADJOURNMENT The meeting was adjourned at 2:24 p.m. by **Chairman Andreason**.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 9, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: None

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

GUBERNATORIAL APPOINTMENT: **Tom Kealey, Re-appointment to Idaho Endowment Fund Investment Board.** Mr. Kealey was called to fill a vacated position and has served on the Board for three and one-half years. He received his Masters Degree in Business Administration from Harvard, and in 2004 attended the Executive Education Program at Harvard. **Chairman Andreason** thanked **Mr. Kealey** for his appearance and noted that the Committee will take action next Tuesday.

MOTION: **Senator Coiner** moved to send **Clarisse Maxwell's** nomination to the Idaho Personnel Commission Board to the Senate floor with a recommendation that the appointment be confirmed by the Senate. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

RS 15597 **Relating to Worker's Compensation**
Jack Barrett explained that the purpose of this legislation is to extend Worker's Compensation death benefits to children of deceased workers when the child is enrolled as a full-time student at an accredited educational facility and is beyond 18 years of age. Under the current death benefit system, Idaho is ranked at the bottom of the list compared to other states. Forty states have extended death benefits for full time students to age 21 or age 25, depending on the state. The impact on premiums in Idaho would be minimal according the National Council on Compensation Insurance (NCCI), the increase would be .2 of 1% of the premium.

MOTION: **Senator Werk** moved to send **RS 15597** to print. The motion was seconded by **Senator Broadsword**. The motion carried by **voice vote**.

RS 15977 **Chiropractic Physician Liens**
Ralph Wheeler, Lobbyist, representing Idaho Association of Chiropractic Physicians, presented this legislation. This legislation would allow

chiropractors to file a claim on a settlement when they provide services when an injury occurs. This would not apply to Worker's Compensation cases, since those cases are specifically exempted. **Senator Werk** asked if chiropractors were considered physicians under Idaho Code. **Mr. Wheeler** said that they were.

MOTION: **Senator Goedde** moved to send **RS 15977** to print. **Senator Werk** seconded the motion. The motion was carried by **voice vote**.

RS 15853: **Relating to Leaves of Absence for Organ Donations**
Senator Burkett introduced **Matt Weigand**. **Mr. Weigand** is a medical student working in pathology at St. Alphonsus Hospital. Essentially, this legislation provides paid leave for a full-time employee who is making a live organ or bone marrow donation.

Senator Broadsword questioned the references to "officer and employee" when the bill uses the language of a full-time employee. **Mr. Weigand** responded that "officer and employee" is a standard reference to a state employee.

Senator Goedde asked if organ donors were paid. The answer was that research showed that they were not. **Senator Werk** said he had read an article that indicated there was a scandal in another country because of payment for organs, but donors were not paid in the United States.

Senator Cameron clarified that the bill allowed five additional days over and above regular sick leave. **Mr. Weigand** confirmed that statement. **Senator Cameron** then asked if the leave of absence days would accumulate just like sick leave days accumulate. By statute, the five days would not be accrued. However, these days would fall prior to the use of the regular sick leave days which, in effect, would preclude using regular sick days when donating an organ because recovery time is normally five days.

Senator Cameron asked what the total cost would be to the general fund and **Senator Coiner** asked if the information could be taken to Human Resources for an estimate of the cost. **Senator Burkett** responded that, based on the data, if one person a year would take advantage of this, the cost would be \$3,100. Further calculations cannot be made since sick leave and leave of absence are calculated differently. In fact, there could be savings because of the way Medicare and high end individual payments would impact the cost.

MOTION: **Senator Werk** moved to send **RS 15853** to print. **Senator Coiner** seconded the motion. The motion carried by **voice vote**.

- RS 15951C1** **Relating to Personal & Financial Information on Computerized Data Bases**
Senator Werk explained that this bill relates to identity theft and notification when there has been a system breach. It sets out the definitions of what constitutes a breach and the steps to notify people affected by the breach. A multi-faceted group was involved in writing this legislation including financial institutions, retailers, bankers, Department of Finance personnel, state agencies and other businesses.
- Senator Cameron** commended Senator Werk on this legislation, but he asked why there would not be a fiscal impact considering the costs of notification, etc. **Senator Werk** answered that, to his knowledge, the state has not had a security breach, and this bill does not require any additional systems installed or supported.
- Senator Cameron** brought up the question of liability to the state. **Senator Werk** explained that liability would depend on the state's compliance with the law, and whether it did or did not comply.
- MOTION:** **Senator Malepeai** moved to send **RS 15951C1** to print. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.
- RS 16017** **Relating to Leave of Absence by State Employees and Officers for Military Duty**
Senator Stennett stated that the intent of this legislation is to ensure that state employees who are members of the Idaho National Guard will be eligible for leaves of absence when they are called to active duty. The current law states that they are put on leave of absence for "field duty" only. This bill changes the language to "military duty" which would cover both active duty and field training. This would guarantee that those members on active duty would receive the two-week leave of absence.
- MOTION:** **Senator Coiner** moved to send **RS 16017** to print. **Senator Compton** seconded the motion. There was some confusion as to whether leave of absence was taken once, or once each for "field duty" and "active duty." **Major David Dolly**, Attorney, explained that the term "field duty" is obsolete and that "military duty" covers the once-per-year time when a guardsman is on duty, regardless of the type of duty. The motion carried by **voice vote**.
- RS 15952C1** **Public Employees Retirement Systems of Idaho (PERSI), Relating to Indemnification**
Alan Winkle, Executive Director of Public Employee Retirement System of Idaho (PERSI), addressed the committee regarding this proposed legislation to provide indemnification of the PERSI Board Members. Under the current law, the personal assets of the board members are at risk. This legislation provides clarification of the situations when a board member would be at risk and when they would not.
- MOTION:** **Senator Compton** moved to send **RS 15952C1** to print. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.
- S 1268** **PERSI, Relating to Disability Retirement**

This bill will change current language to provide that an inactive member will have one year from the last day he/she was physically on the job to file an application for disability retirement.

MOTION: **Senator Goedde** moved to send **S 1268** to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

S 1269 **PERSI, Voluntary Contributions**
This bill will phase out an antiquated program that allowed for after-tax voluntary contributions toward retirement funds.

MOTION: **Senator Compton** moved to send **S 1269** to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1270 **PERSI, Unused Sick Leave**
This is a housekeeping bill that will bring the state program and the school program into harmony with one another. The bill amends both Section 67-5339 and Section 33-1223, **Idaho Code**, to better define what expenses can be covered with unused sick leave funds. It emphasizes the broad authority of the PERSI board to make necessary adjustments to reported "rate of pay" and to applicable contribution rates in order to maintain equity in the respective funds. It is also intended to clarify the definition of a work day.

Senator Cameron requested clarification on how this applies to the local school districts and how teachers will be affected. **Mr. Winkle** explained that the legislation does not remove any sick leave benefits, but determines the value of each day or hour. He also acknowledged there are some special situations that will have to be resolved with some of the school systems, and those are currently being addressed.

Jim Shakelford, Executive Director of the Idaho Education Association, spoke on behalf of the teachers. He stated that there had been some "heightened anxiety" regarding the changes provided by this legislation, but he believed that by working with Mr. Winkle, some of that anxiety had been alleviated. There are some definitions that need further clarification, such as how to define a "work day" in a four-day per week school versus a five-day per week school. These specific types of questions are currently being addressed.

Senator Stegner asked about defining days, citing the example of college professors under contract as opposed to those who work the entire academic year. He further stated that the intent of this bill is to define days in a way that is equitable, defensible, and fair, and **Mr. Winkle** confirmed that is correct. Equity is the important issue.

Senator Stegner asked how the language granting the PERSI board authority will be applied. Will there be a rule issued by the board, or will it be applied on an individual basis to be determined case-by-case. **Mr. Winkle** stated that it will be applied by employer, by circumstance. Given

the number, there probably will not be a rule unless the trend changes.

MOTION: **Senator Stegner** moved to send **S 1270** to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1271 **PERSI, Benefits Suspended**
This bill amends existing law by clarifying that suspended benefits are considered retiree benefits in the event a death benefit becomes payable. When a retiree returns to work and retiree benefits are suspended, the retiree starts accruing increments as an active member on their own formula and average salary. If a death should occur while the retiree is re-employed and retiree benefits are suspended, benefits will be paid on the suspended portion and active benefits will be paid on the accrued portion that was earned as an active employee.

MOTION: **Senator Werk** moved to send **S 1271** to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Broadsword**. The motion carried by **voice vote**.

S 1334 **PERSI, Fireman, Paid, Retirement**
Senator Goedde explained that this bill is to correct an oversight and amend Chapter 211, Laws of 1990 to clarify that the disability provisions of that act will also be applied to all paid firemen hired between July 1, 1978 and October 1, 1980 who were incapacitated in the performance of duty and whose retirement date was prior the April 3, 1990. The adjusted benefits will not include interest.

MOTION: **Senator Broadsword** moved to send **S 1334** to the Senate floor with a do pass recommendation. **Senator Compton** seconded the motion. The motion carried by **voice vote**.

S 1272 **PERSI, Member, Not Vested, Separation**
Mr. Winkle continued with the PERSI bills. This bill amends Section 59-1359, **Idaho Code** to eliminate mandatory distribution of an Individual Retirement Account (IRA) account balance in excess of \$1,000, thus avoiding the new federal mandatory rollover requirements.

MOTION: **Senator Coiner** moved to send **S 1272** to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

S 1345 **PERSI Retirement, Re-Employment**
Senator Corder addressed the committee regarding this legislation to allow a retiree to be elected to a full-time position, receive the salary allocated for that office, and continue to receive their retiree benefits. This bill will not expand the re-employment right of retirees, other than its relationship to elected positions only. Other provisions of this legislation are: (1) The retiree must have retired with an unreduced retirement allowance; (2) must have been retired for six months and cannot be returning to the same office from which they retired; and (3) they cannot accrue additional benefits.

MOTION: **Senator Werk** moved to send **S 1345** to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The

motion carried by **voice vote**.

ADJOURNMENT: The meeting was adjourned at 2:48 p.m. by **Chairman Andreason**.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** February 14, 2006
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS:** Chairman Andreason, Vice Chairman Coiner, Senators Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- ABSENT/
EXCUSED:** Senator Cameron entered the meeting at 2:30 p.m.
- GUESTS:** The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).
- CONVENED:** The meeting was called to order by **Chairman Andreason** at 1:30 p.m.
- GUBERNATORIAL
APPOINTMENT:** **Chairman Andreason** announced that the committee was ready to take action on the re-appointment of **Tom Kealey** to the Idaho Endowment Fund Investment Board. **Mr. Kealey** had appeared at a previous committee meeting and was re-appointed to serve a term commencing April 11, 2005 to April 11, 2009.
- MOTION:** **Senator Compton** moved to send the re-appointment of **Tom Kealey** to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that the re-appointment be approved. The motion was seconded by **Senator Coiner** and carried by **voice vote**.
- S1363** **Relating to the State Personnel System and Nonclassified State Officers and Employees**
Matt Freeman, Budget Analyst, explained the changes and fiscal impact of **S 1363**. This bill is a re-write of **S 1309** and includes revisions in language and technical corrections as cited by **Ms. Ann Heilman**, Director of the Division of Human Resources, at the January 31, 2006 meeting during the review of **S 1309**.
- Senator Compton** wanted to be assured that page four, line forty-five (payment distribution in unusual circumstances) was not taking away the intent of the Committee. **Mr. Freeman** assured **Senator Compton** this would not counter the intent of the Committee, but provides oversight in the application of payment distributions "in unusual circumstances."
- Senator Broadsword** referred to page six regarding compensatory time. She asked if an employee does not take their compensatory time or cash compensation, would they lose it as of December 31, 2006. **Mr. Freeman** said that executive employees are not entitled to the cash pay out for compensatory time.

Chairman Andreason recognized **Rick Thompson**, Division Administrator for Insurance Services for the Department of Insurance. **Mr. Thompson** expressed his concerns with the provision in Section 5309C, page sixteen, lines forty-eight, forty-nine and fifty. He explained the current system, and expressed concern that the legislation proposed will be problematic with regard to appropriations for contracts with the insurance carriers and the rules process required for dealing with the negotiated contracts.

Chairman Andreason asked what Mr. Thompson would like the committee to do about his concerns. **Mr. Thompson** advised that he would like to have the provision removed from the bill. **Chairman Andreason** asked **Mr. Thompson** if he had spoken to staff regarding this issue, and requested that **Mr. Freeman** respond to **Mr. Thompson's** concerns.

Mr. Freeman advised that this matter was brought to his attention by **Mr. Thompson** just one hour prior to the start of today's meeting. **Chairman Andreason** suggested that Department of Insurance staff could work with the Department of Administration and work out a plan for any corrective action necessary.

Senator Stegner then asked **Mr. Thompson** to clarify his concerns and identify any issues other than the awkward timing details involved between negotiating contracts and budgetary appropriations. **Senator Stegner** specifically asked **Mr. Thompson** to identify anything within **S 1363** that would reflect upon the legality of any action the Legislature would take, and the responsibility of the Department of Administration to implement the legislation with an administrative process and associated rules.

Mr. Thompson stated that he could not address the legal issues, but is concerned with whether the contract or the rule would take precedence. **Senator Stegner** said that he could see no issues that would require serious consideration for modification of **S 1363**.

MOTION:

Senator Stegner made the motion, and **Senator Compton** seconded, to send **S 1363** to the Senate floor with a do pass recommendation.

**DISCUSSION/
QUESTIONS:**

Senator Werk requested further discussion of **S 1363** and requested that **Ann Heilman**, Director of the Division of Human Resources, come to the podium for questions from the committee.

Senator Werk asked Ms. Heilman if she had met with **Mr. Freeman** to address the changes and revisions that she presented at the January 31, 2006 meeting and whether she felt the changes had been completed in a beneficial fashion. **Ms. Heilman** said yes, and that **Mr. Freeman** was very careful not to alter any of what **Senator Compton** referred to as the "essence of the committee's philosophy." She continues to have several concerns about the bill's structure and the fairness in pay issues, but all of the technical issues she had asked to be addressed were addressed in **S 1363**.

Senator Werk commented that his intention in asking **Ms. Heilman** to

address the committee was in an effort to make sure that any remaining issues are fully aired now. **Ms. Heilman** advised that she was hesitant to state her concerns, because of the characterization of her efforts to do so at the meeting on January 31.

Ms. Heilman advised that she did testify in the Interim Committee that she was concerned about “equal pay for equal work” with regard to the section of the bill relating to geographic and shift pay differentials. She acknowledged, however, that this legislation does have the flexibility that the agencies have asked for. However, there was nothing to make sure that a secretary in one agency and another secretary in relatively identical working conditions would receive the same kind of additional geographic or shift differential pay.

Senator Werk requested further explanation of her thoughts regarding this issue. **Ms. Heilman’s** example was as follows: A nurse at the Veteran’s Home in Lewiston, a nurse in Central District Health, and one in Health and Welfare are all working swing shift; however, are they all receiving relatively equal pay for equal work? **Ms. Heilman** advised that it is her intent to just implement this bill as carefully as can be done within the parameters provided within the bill.

Senator Werk commented that he sensed the type of situation presented by **Ms. Heilman** currently exists among state employees, and it appears that “we have equal pay for equal work issues in the state right now.” **Ms. Heilman** said “equal pay doesn’t mean equal dollars,” but requires that there is a structure of how the employees are paid, and the system has to make sure it does not discriminate on any basis. Currently, all jobs are point-factored according to the “Hay System” and assigned a pay rate; and all of the jobs, regardless of the person’s race, religion or gender are paid according to that point system. We need to make sure that our pay system is fair.

Senator Werk then asked **Ms. Heilman** if her concern was that an inequity in administering this type of shift differential pay would expose the state to a lawsuit from an employee claiming that the state utilized discriminatory hiring or pay practices.

Ms. Heilman replied that this type of concern was part of her job description as a Human Resources Director; however, she was not suggesting that the passage of **S 1363** would somehow place the state in danger. **Ms. Heilman** stated, “It would be more on a national experiences that sometimes managers make decisions that they see in their tunnel vision as the very best for the circumstances at the time, but are not good for the state as one employer. So, we would – it would be at a higher risk for those kind of appeals or law suits and other states have done it as well.”

Senator Compton spoke to **Ms. Heilman’s** previous comments and her statement that this could be addressed by rule making or in an administrative bulletin to advise management of this potential problem. **Ms. Heilman** confirmed that was correct; and, that would be the direction of her leadership upon the passage of **S 1363**.

Chairman Andreason advised that he was very pleased with this bill, as it was the result of “a very hard working committee that worked long and hard this summer to put this bill together.” He further stated, “I have yet to see my first – very first – ‘perfect’ bill; and, if someone could point one out to me, I would be very interested in reading it.”

**ROLL CALL
VOTE:**

Senator Werk requested a roll call vote on the motion currently standing to send **S 1363** to the Senate floor with a do pass recommendation. A roll call vote was called by the Chairman, and the motion passed unanimously with eight Aye votes. (**Senator Cameron** was not present at the meeting at this time and did not vote on this matter.)

Senator Malepeai stated his concern with the manner in which the Department of Administration and the Division of Human Resources had presented their issues before the committee. He suggested that if a department has concerns regarding any pending legislation, or if they wished to provide recommendations for improvements, it is important that they provide notification to the committee in advance of the hearing date to allow review at the appropriate time.

S 1295

Industrial Indemnity Fund, Assessment

Ted Roper, Manager for the Industrial Special Indemnity Fund (ISIF) addressed the committee regarding this legislation. **Mr. Roper** explained the ISIF is more commonly referred to as “the second injury fund” and is part of the worker’s compensation system. The ISIF is housed in the Department of Administration and is charged with paying certain worker’s compensation plans that arise as a result of a pre-existing impairment and later or subsequent injury subject to certain criteria. Funding for the ISIF is provided by contributions or assessments on worker’s compensation insurers and self insurers. Through this legislation, they are requesting to change the timing and frequency of the assessment process in order to reduce the administrative work load. This change would have no impact on the assessments or any worker benefits, but would result in a 25% reduction in the number of transactions required.

MOTION:

Senator Compton made the motion, and **Senator Malepeai** seconded, to send **S 1295** to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

S 1360

Relating to Idaho Real Estate Law

Donna Jones, Executive Director for the Idaho Real Estate Commission, addressed the committee regarding **S 1360**, which she referred to as the “agency’s annual clean-up bill.” The legislation will correct inconsistencies in the statute and update some provisions to conform to modern technology and practices. A copy of **Ms. Jones’** testimony is included in these minutes as Attachment #1.

In discussion following **Ms. Jones’** presentation, **Chairman Andreason** inquired about the qualifications of the “challenge exam.” **Ms. Jones** explained this was the continuing education examination. Under **S 1360**, students who take this examination and fail will be required to take the entire educational course and retake the exam with a passing grade before they will receive continuing education credit for the course. **Ms.**

Jones answered additional questions about the reciprocal license; clarified the references to “walk-in registration” and “failure to show” for the examination; and discussed the use of social security numbers in the real estate licensing process. She introduced **Kim Costa**, the attorney for the Idaho Real Estate Commission and a participant in the drafting of this legislation, to provide additional clarification regarding the specific terminology and language used in the bill.

MOTION: **Senator Goedde** made the motion and **Senator Broadsword** seconded to send **S 1360** to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

H 451

Relating to Firemen’s Retirement Fund

Representative Bob Schaefer addressed the committee regarding this legislation. **Mr. Schaefer** explained that this is a narrowly defined bill to specifically address the issue of lifetime annuity benefits paid under the Firemen’s Retirement Fund to “alternate” payees. Specifically, this addresses divorce situations where the member remarries and the benefits to the ex-spouse (alternate payee) are contingent upon the member lifetime or the lifetime of the surviving spouse.

Currently, the alternate payee benefits terminate upon the death of the member or the member’s surviving spouse, whichever occurs last. **Mr. Schaefer** explained that this situation was brought to his attention when a constituent (an alternate payee) whose benefit had ceased upon the death of her ex-husband’s spouse was awarded continuation of benefits by the Court. **H 451** was written to address this problem, avoid future litigation, and to clarify that payments to an alternate payee will not be tied to the death of the member or the member’s surviving spouse.

Mr. Schaefer then introduced **Alan Winkle**, Director of the Public Employees Retirement System of Idaho (PERSI), to answer questions and provide additional clarification for the committee. **Mr. Winkle** distributed a diagram to better illustrate the circumstances of distribution of payments under the current statute and under the law as amended by **H 451**. **Mr. Winkle’s** diagram is included in these minutes as Attachment #2.

Senator Werk requested that **Mr. Karl Mallott** of the Professional Firefighters of Idaho take the podium to answer questions regarding correspondence the Senator had received in opposition of the proposed changes to the Firemen’s Fund.

Mr. Mallott explained that he had also been contacted by individuals concerned with **H 451** and the possible impact on existing Court decrees awarding alternate payee benefits. **Mr. Mallott** advised that **H 451** only applies to divorces occurring after the effective date of June 1, 2006. While there is a provision in the bill for the Court to re-open and amend a domestic retirement order, the Court would only do this if both parties are in agreement and it is an amicable situation. **Mr. Mallott** felt that the concerns expressed to him regarding changing benefits “after the fact” have been adequately addressed and are no longer an issue.

Senator Stegner asked **Mr. Winkle** how many people are presently

involved in this retirement plan. **Mr. Winkle** advised that there are currently about ten active members and close to 500 retired members. The vast majority of this legislation will apply to the retired members. **Senator Stegner** emphasized to the committee that this particular retirement plan does have a “shelf life” and will eventually cease.

MOTION: **Senator Stegner** made the motion and **Senator Werk** seconded to send **H 451** to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

APPROVAL OF MINUTES: **Senator Werk** made the motion, and **Senator Compton** seconded, to approve the minutes of the January 12, 2006 meeting as written. The motion carried by **voice vote**.

ADJOURN: The meeting adjourned at 2:51 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

ATTACHMENT #1

Testimony of Donna Jones, Executive Director, Idaho Real Estate Commission
S 1360 Hearing - Senate Commerce & Human Resources Committee
Tuesday - February 14, 2006

REAL ESTATE COMMISSION – SB 1360 – EXECUTIVE SUMMARY

The Commission's Legislative package for 2006 consists of a single proposal: SB 1360. This is our agency's annual clean-up bill.

This bill aims to:

- Correct inconsistencies in the statute;
- Update some provisions to conform to modern technology and practices.

The bill also contains small but important revisions to the Continuing Education provisions of the Real Estate License Law:

- Adds Business Conduct & Office Operations Course to definitions. (Last year we added the requirement that all new 'Designated Brokers' must take this class which teaches them trust accounting.)

Specific registration procedures for taking the license exam are being removed from the Code because:

- They change over time;
- Don't need to be in statute;
- Will be moved to Commission's written Policies; and
- Contract negotiations with an exam provider

The proposal also addresses licensee privacy concerns regarding their having to give their Social Security number when registering to receive credit for Continuing Education classes.

Current statute requires a social security number be provided to the course provided. However, if this bill passes, licensees will be able to use their license numbers as identification, instead.

Finally, the proposal modifies some classroom and test-taking policies of the Commission.

Perhaps the most significant change is that a student who takes and fails to pass a *challenge* exam no longer will be permitted to simply retake the challenge exam — as is allowed under current law.

A student who fails a challenge exam will be required to take the entire course and then pass the final exam to receive CE credit for the course.

ATTACHMENT #1

Page 2

The idea behind this change is that the student who has not taken the course and does not have the information (fails the test) gains nothing by being allowed to take the test again.

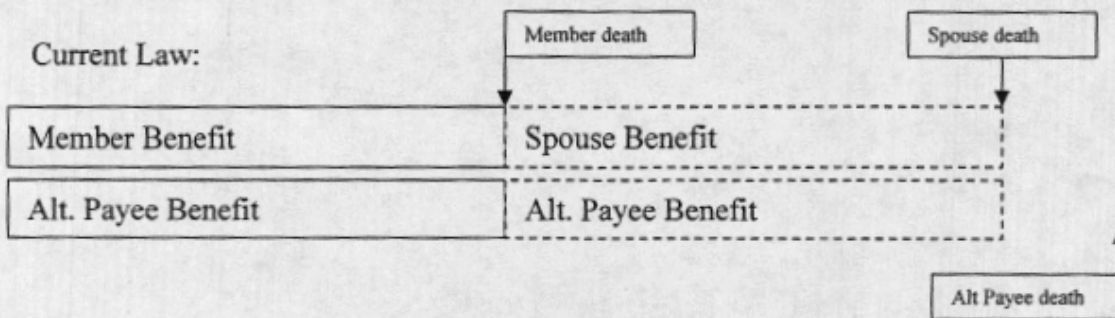
This proposal was developed in collaboration with the Idaho Real Estate Education Council.

The draft was presented to the Idaho Association of Realtors Board of Directors in July, and subsequently approved by that organization. This proposal has been posted on the Commission*s Website for several months now. There is no known opposition.

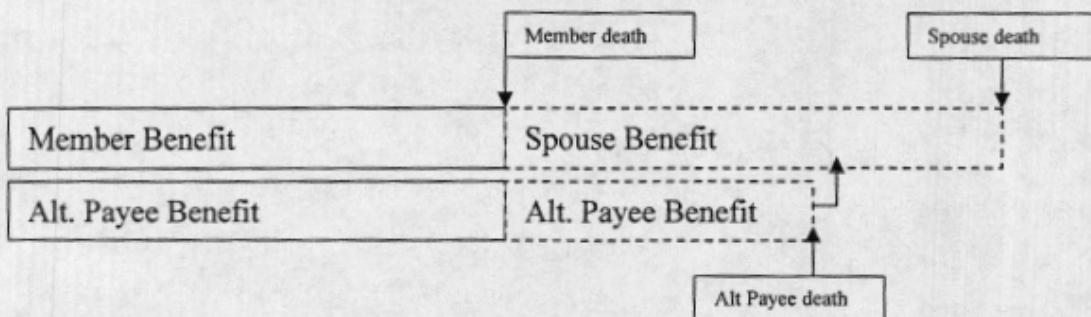
ATTACHMENT #2

Testimony of Alan Winkle, Executive Director, PERSI
H 451 Hearing - Senate Commerce & Human Resources Committee
Tuesday - February 14, 2006

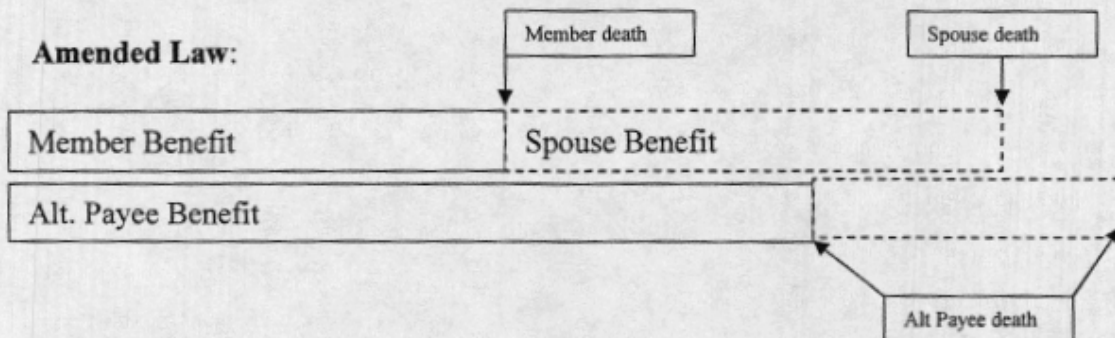
FRF Alt Payee Examples After Date of Divorce:



Alt. Payee benefit ceases upon the later of death of member or death of spouse.



If Alt. Payee pre-deceases Member or Spouse, Alt. Payee benefit reverts to Member or Spouse.



Alt. Payee benefit ceases upon death of Alt. Payee. No reversion to Member or Spouse.

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 16, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: None

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

CONVENED: The meeting was called to order by **Chairman Andreason** at 1:35 p.m..

S 1371

Relating to Workers Compensation

Jack Barrett serves on the Worker's Compensation Advisory Committee, Idaho State Industrial Commission. **Mr. Barrett** explained that this bill amends existing law related to Worker's Compensation to extend death benefits to a child who is a full-time student registered at an accredited educational institution or vocational training program to age 23. Forty other states have extended benefits ranging from 21 to 25 years of age for this group of children. The majority was at age 23.

Mr. Barrett contacted the National Council on Compensation Insurance (NCCI) to determine the impact on worker's compensation premiums. NCCI is the rating bureau that provides the premiums to Idaho each year. The response was that the overall impact of the proposal would be two-tenths of one percent. That assumes that every child would take advantage of the program, which is unlikely. It has been some 30 years since the worker's compensation law was re-codified, and this issue was discussed but tabled at that time. It is time to resolve the issue now.

John Greenfield spoke in support of the legislation. He told of his experience with the Sunshine Mine disaster that occurred in May, 1972. Had this disaster occurred one year earlier, the consequences would have been much worse, because prior to January, 1972, the effective date of the re-codification, the maximum death benefit was \$16,000. The re-codification restructured the death benefits. However, even those new benefits dropped the child at age 18 with no money for further education. Those provisions remain in effect today. It is time Idaho implemented the same benefits that most other states have in place.

Senator Cameron applauded the decision to expand this definition, and

posed two additional questions. First, this bill seems to cut off permanently disabled children at age 23; and secondly, how the issue relates to young people between the age of 19 to 23 that are out serving missions, and whether they should also qualify for the same type of death benefit.

Mr. Barrett responded that there is some provision in the current statute for an individual who is incapable of self-support, and that person would receive the full 500 weeks benefit. On the second point, **Mr. Barrett** said he had not even thought of it; however, this issue could also be applicable to the child in the military for two-three years. There could be some consideration to that issue in the future, after this bill goes into effect.

Senator Broadsword asked if the death benefit was always paid out in a weekly benefit or could it be paid in a lump sum. **Mr. Barrett** answered that a spouse could make an application to the Commission for a partial or full lump sum payment in the case of a financial crisis. **Senator Broadsword** asked Mr. Barrett to confirm that these benefits were in addition to Social Security benefits. **Mr. Barrett** confirmed this was true until the child turned 18, and then social security benefits stopped.

Senator Werk asked if there were any requirements about a student's standing at the educational facility. **Mr. Barrett** stated that there were not any requirements.

MOTION:

Senator Werk moved to send **S 1371** to the Senate floor with a do pass recommendation. **Senator Compton** seconded the motion. The motion carried by **voice vote**.

Chairman Andreason recognized **Senator Stennett** to address the Committee regarding **S 1362** and **S 1375**. **Senator Stennett** thanked the Committee for scheduling the next two bills on the same day.

S 1362

Relating to Military Deployment, Health Insurance

Senator Stennett thanked the young Master Sargent for bringing this issue to the attention of the legislature. In the past, National Guardsman were not deployed for active duty. Three years ago (after 9/11), that changed: National Guardsman were deployed overseas. This deployment brought forth some deficiencies in the *Idaho Code*. Guard members who were also state employees were caught in a loophole where their dependents could be left without health care coverage for 30 days during a time of deployment unless the guardsman/state employee used their vacation pay to cover this time period. In most cases there was not enough vacation time to cover the full 30 days. This bill amends current law to provide existing medical benefits from the state for the first thirty days of deployment without decreasing any existing leave balances.

Chris Brewley, state employee and a fireman and member of the Idaho National Guard, testified that he was deployed shortly after 9/11 and again was sent to help after Hurricane Katrina. This is when he became

aware of the loophole. Both times that he was activated, he was given two options. He could either use his personal leave or take inactive status resulting in loss of medical coverage as soon as his premium expired. **Mr. Brewley** stated that enacting this law would insure there is no gap in insurance coverage, and he asked for support of this bill.

MOTION: **Senator Coiner** moved to send **S 1362** to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1375 **Relating to Leave of Absence by State Employees and Officers for Military Duty**

Senator Stennett stated that this bill is to amend current law that has not been updated since 1939 and did not envision that Idaho National Guardsmen would be deployed. There is an issue with the definition of "field training" versus "annual training" versus "activation." When Guardsmen were "activated" for overseas or Hurricane Katrina, they were not able to take their leave allowed for field training while they were actually doing combat duty. This bill updates the terms from "field training" to "military duty." The Military Division believes this is an appropriate way to handle updating present law. There will not be a fiscal impact because one definition will be substituted for the other and the benefit will remain the same.

MOTION: **Senator Werk** moved to send **S 1375** to the Senate floor with a do pass recommendation. **Senator Stegner** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Andreason** announced that the first half of the session for Senate Pages was concluding this week. He commended Staniela Nikolova, Committee Page, with letters of recognition and a gift to thank her for her excellent service to the Committee.

ADJOURNMENT: **Chairman Andreason** adjourned the meeting at 2:25 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** February 21, 2006
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- MEMBERS ABSENT/ EXCUSED:** None
- CONVENED:** The meeting was called to order at 1:30 p.m. by **Chairman Andreason**.
- GUESTS:** The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).
- Chairman Andreason** introduced the Committee's new Page, **Lacy Keller** from Idaho Falls. **Lacy** will serve as Committee Page for the second half of the legislative session. She is a dually enrolled student at Skyline and is home-schooled. After graduation, she plans to attend BYU Idaho and major in Communications and Political Science.
- MINUTES:** **Senator Broadsword** moved to accept the minutes of January 26, 2006, minutes as written. **Senator Compton** seconded the motion. The motion carried by **voice vote**.
- Senator Compton** moved to accept the January 31, 2006, minutes as written. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.
- H 577** **Relating to Unemployment Benefits, Violations**
Bob Fick, Communications Manager, Communications & Research, Idaho Department of Commerce and Labor, presented this bill that will amend the existing unemployment insurance law in four areas. All changes have been approved unanimously by the External Advisory Committee to the Department.
- The first section provides for additional methods of refunding or charging employers for the difference between what they have paid into the system and what has been paid out of the employer account. The second section expands the definition of fraudulent claims to include all weeks that overpayment occurred due to a fraudulent claim. Third, anonymity is guaranteed to an informant who reports suspected unemployment insurance fraud. The last section allows the Department to recover debts through income tax refunds or other payments due from other state departments.

MOTION: **Senator Compton** moved to send H 577 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

Chairman Andreason recognized **John Mackey** to address the Committee regarding H 446, H 447, and H 448. **Mr. Mackey** advised that he is a representative for the United Heritage Financial Group.

H 446

Relating to Insurer, Stock/Mutual, Surplus, Use

This bill will allow the payment of commissions to Idaho domestic insurers for the issuance of surplus notes. The approval of the Director of the Idaho Department of Insurance will be required. Current law, which prohibits payment of such commissions, was written in 1961 and is contrary to current business practices. The Director of Insurance has the discretion to approve or disapprove these loans if they appear to be unnecessary or excessive.

Senator Compton asked a representative of the Department of Insurance if that Department had any objections. **Shad Priest**, Department of Insurance, responded that the department had no objections to this bill.

Senator Compton commented that the rates seemed arbitrary and asked for clarification. **Mr. Priest** responded that the bill does not set the rates, it only allows commissions to be paid in connection with the issuance of a loan.

Senator Goedde asked if the issuance of surplus notes would be sought only troubled companies, or would they be of interest also to "growth companies" (companies that are experiencing rapid growth). **Mr. Priest** responded that fast growing companies would be more likely to use this type of note.

Senator Goedde questioned the timing of the approval of the Director of Insurance, as he is assuming these transactions are time sensitive, and asked if that is a concern. **Mr. Mackey** replied that it was his assumption that a willing lender and a willing borrower will mutually determine what is fair; and, generally speaking, timing would not be an issue. Also, there is a time requirement in current law.

MOTION: **Senator Cameron** moved to send H 446 to the Senate floor with a do pass recommendation. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

H 447

Related to Insurers, Loan to Value Ratio

This bill pertains to loans for commercial and residential purposes. H 447 amends current law to allow domestic insurers to issue mortgage loans at a loan-to-value ratio of 80% of fair market value of the property. The bill will eliminate all reference to a loan with a value-to-loan ratio of 75% and remove "contract for a deed" as an instrument of conveyance on the basis that "contracts for a deed" are outdated and no longer used in the State of Idaho.

Senator Goedde and **Senator Werk** questioned whether the result of striking out Section 41-721 (2), *Idaho Code*, would do more than what this amendment was intended to do. **Jack Windrel**, Chief Operations Officer of United Heritage Financial Group (UHFG), addressed the Committee to answer this question. He explained that this section only applies to the reference of “contract for a deed” and, by eliminating that, nothing more would be done than removing that outdated term. In reality, it had nothing to do with minimums or maximums on loans.

Senator Goedde pointed out that this section specifically states that there is a limit of \$10,000 and that limit is being deleted from this section. The removal of the limit was not included in the Statement of Purpose (SOP). All the SOP does is change the percentage, and if there is more being done than that, there is a problem.

Senator Cameron addressed these concerns. He explained that the language currently in Section 41-721 (2) is a little archaic and the \$10,000 limit was probably put in effect at a time when loan amounts were very small. In today’s environment, loans are more like \$100,000 to \$200,000. The intent of this bill is to allow domestic insurers the ability to compete with companies such as Mutual of New York and other national insurers.

Senator Cameron further stated that he had great faith in Mr. Mackey and the company he represents. He also stated, in the interest of full disclosure, that UHFG is a company he represents, although he does not deal at all with the mortgages, surplus notes, or anything related to that part of the business. **Senator Cameron** stated that he does represent UHFG and some of their products.

Senator Goedde suggested just striking the reference to 75% and leaving the \$10,000 maximum. **Mr. Mackey** argued that \$10,000 is not an appropriate limit, as this limit is outdated. The real issue is whether Idaho domiciled insurers will be allowed to loan up to 80% of the value, regardless of the amount of the loan, just like Utah, Oregon and other competitive states are allowing, and stay in that market place.

Senator Goedde stated that he has no problem with the purpose of this bill, and wanted it stated that this also has to do with modernizing the current law, as well as changing the percentage. **Mr. Mackey** asked the Committee to accept his apology.

MOTION:

Senator Cameron moved to send H 447 to the Senate floor with a do pass recommendation, and asked Mr. Mackey to revise the Statement of Purpose to include the other provisions. The motion was seconded by **Senator Coiner**.

Senator Werk questioned whether striking out the reference to Section 41-706, *Idaho Code*, would open the door for loans exceeding 10% of the proceeds in any one area. **Senator Cameron** responded that he was certain that the lender would still have to comply with the constraints set forth in Section 41-706. **Shad Priest**, Department of Insurance, agreed that **Senator Cameron** was correct. Question was called for. The motion

carried by **voice vote**.

H 448

Relating to Insurers, Investments, Canada

House Bill 448 amends current law to allow domestic insurance companies to invest in foreign securities and enter into world markets. Current code only allows foreign investments if the insurer is authorized to transact business in a foreign country. This bill repeals the current Section 41-727, *Idaho Code*, and replaces it by adding a new Section 41-727, *Idaho Code*, with new definitions and provisions that allow limited investments in foreign securities so Idaho's domestic insurers can compete in a global economy.

Senator Goedde directed his question to **Shad Priest**, Department of Insurance, and asked if there is any model language from the National Association of Insurance Commissions (NAIC) on foreign investments? **Mr. Priest** stated that he did not know if there was a model provision, but the language in this bill is patterned after a similar law for the state of Kansas. Other states are also similar to the Kansas law.

Senator Werk asked why the definition of "Business Entity" was defined for this specific purpose instead of going to other areas within *Idaho Code* and using an existing definition. **Mr. Mackay** could not answer that question; however, **Mr. Priest** advised that this language was used because, in foreign markets today, there is a wide variety of trusts or quasi-trusts, etc., being used. This bill was drafted to allow, to a large extent, American companies issuing securities offshore and to define "foreign" to be foreign, and the list of classifications was intended to include U. S. Companies that issue a security treated as a foreign security. Therefore, it was necessary to identify what was a foreign entity in order to put a limit on what would be accepted as a foreign investment.

Senator Werk requested that Mr. Priest address these definitions for the Committee. **Mr. Priest** stated that the NAIC accepts these definitions. The NAIC also investigates and makes a very detailed analysis to assure that an investment is qualified.

MOTION:

Senator Goedde moved to send H 448 to the Senate floor with a do pass recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

S 1374

Relating to Personal & Financial Information on Computerized Data Bases

Senator Werk presented this bill to the Committee. This bill addresses identity theft and security breaches and how Idaho citizens can be protected. **Senator Werk** gave examples of how computer data bases could be breached by hackers and how serious the problem is. He also explained the difference between encrypted data and unencrypted data. This bill is patterned after a similar law from Delaware. Senate Bill 1374 amends current law by adding a new section that covers notification of a breach to Idahoans and procedures to follow if a breach occurs. There is also a provision for a monetary fine in case of a violation of this statute. **Senator Werk** stated that this bill is a "win-win" situation and asked the Committee for a do pass recommendation.

Mike Brassey, appearing on behalf of the Idaho Financial Services Association, stated that he had the opportunity to provide input on this bill and volunteered to answer any questions posed by the Committee. **Mr. Brassey** is in full support of this bill.

Pat Collins from the Idaho Bankers Association also wanted to offer support to this legislation. The banking industry is already regulated in this area. No matter where the breach occurs it should be reported. This bill allows for a reasonable investigation before notification and then, depending on the outcome of that investigation, notification occurs. He supports this legislation.

Senator Broadsword discussed a situation where bank information was breached because of the theft of a laptop computer, and she questioned whether or not it was appropriate for bank personnel to carry that type of information in a laptop computer. **Mr. Collins** stated that he could not address that issue unilaterally; however, it would depend on the facts pertaining to the particular situation (whether the laptop information was encrypted or unencrypted; why the laptop contained the information; and, and where the laptop was going). He suspected that there may be instances where a laptop containing this type of information would be taken along when the owner traveled.

Dick Rush is a representative of the Idaho Association of Commerce & Industry (IACI) and he supports this bill. IACI represents companies of all sizes. This bill clearly outlines what happens when a breach occurs and provides methods to minimize the cost of notification. This bill assures the citizens of Idaho that the confidentiality of computerized data is protected under state law. **Mr. Rush** quickly summarized the bill and what it does.

Alan Cameron, President of the Idaho Credit Union League, also appeared to support this legislation. There are 23 states that have current legislation supporting this issue and another 14 states are considering such legislation this year. He stated that "this is a piece of legislation whose time has come and it is needed in Idaho" and he urged the Committee's support with a do pass recommendation.

MOTION: **Senator Broadsword** moved to send S 1374 to the Senate floor with a do pass recommendation. **Senator Compton** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: The meeting was adjourned by **Chairman Andreason** at 2:31 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 23, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: None

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

CONVENED: **Chairman Andreason** called the meeting to order at 1:30 p.m.

MINUTES: **Senator Coiner** moved to approve the February 2, 2006 minutes as written. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

Senator Broadsword moved to approve the February 9, 2006 minutes as written. **Senator Coiner** seconded the motion. The motion carried by **voice vote**.

S 1372 **Relating to Chiropractic Physician Liens**

Ralph Wheeler, Idaho Association of Chiropractic Physicians, presented S 1372. The bill will amend current legislation with regard to physicians entitlement to liens for reasonable charges where treatment is rendered to an injury where there is legal action to include Chiropractic Physicians. **Mr. Wheeler** said he understood the aversion by the Committee to expand any legislation regarding lien authority. However, this amendment addresses a very narrow area of lien authority. The intent of the bill is to give all caregivers a level playing field when delivering health care. Liens would not apply to Workers Compensation cases, and there would be no authority to attach wages or personal or real property. This authority would, however, prevent cases where the patient receives payment from the insurer but does not pay the provider (in this case the Chiropractor).

Phil Barber, Counsel for the American Insurance Association, spoke in opposition to this bill. **Mr. Barber** provided a brief history of the current statute. He emphasized that the intent of the original legislation was to ensure that first responders were paid, and that is still the primary use of the law. There are very few instances where the facility or the provider who keeps the patient actually uses the lien authority. Chiropractors are considered "downstream providers."

Senator Broadsword disagreed with Mr. Barber's assessment, commenting that in earlier years medical practices were different. Today,

for many accident victims, very often the first stop is a Chiropractor. Not all accidents are severe enough for treatment at a hospital. She questioned why, in that case, a lien for a Chiropractor would be any different than a lien for any other physician. **Mr. Barber** responded that in such cases a lien might be appropriate, but the statute as written is much more generous.

Senator Broadsword then asked about the oversight committee, and if they reviewed the actions of Chiropractors. **Mr. Barber** replied no, it did not.

Senator Compton asked Mr. Barber to explain why he didn't like S 1372. Since it appears that "everybody in the world can file a lien," who would be jeopardized by this legislation? Medical care is a business, and if people do not pay their bills, why shouldn't the provider of Chiropractic services be able to file a lien? **Mr. Barber** advised that others would respond more fully on this question; but first of all, this Committee has been fairly restrictive in allowing the filing of liens. Lien rights get in the way of the economic living. If S 1372 should pass, there will be more parties included in the settlement agreement and it will be more difficult to settle claims. This bill would now allow for a second level provider (meaning non-emergency care provider) with generally less oversight, "to have a chance to get into the mix."

Dr. Mary Jo White, Idaho Association of Chiropractic Physicians, testified in support of this bill. The number one issue that members and non-members have asked this organization to address is the ability for Chiropractic physicians to establish liens for services rendered for injuries sustained, typically in a personal injury case. Patients are often confused when settlement occurs and all providers are paid except Chiropractors. This leads to further litigation. **Dr. White** pointed out that all Chiropractic physicians would not have to file liens if their bills were paid on the same level as physical therapists, massage therapists, medical doctors, rehabilitation centers, or emergency rooms. These are not all primary care physicians, but secondary caregivers that provide care long after initial contact. **Dr. White** reminded Mr. Barber, as well as the Committee, that Chiropractors are licensed by the State and they have one of the most highly developed peer reviews in the nation. Chiropractors are very often selected as primary care physicians.

Woody Richards attended the meeting on behalf of the Property Casualty Insurance Association and spoke in opposition to S 1372. **Mr. Richards** referred to the Health Care Task Force and noted that one of the primary concerns of the task force is increasing health care costs. One of the principle causes of rising health care costs is over-utilization. Providers, patients, and third parties (such as drug companies) are the cause of over-utilization. The troublesome part of this legislation is the partial removal of controls on utilization. Costs control utilization, and if the patient is told that the insurance company will pay the bill, that concern is removed. The passing of S 1372 can increase health care utilization, thereby, increasing costs to eventual insurance purchasers.

Senator Stegner requested an explanation of what happens when a lien is filed, as he is familiar with more tangible liens, but not injury liens. **Mr.**

Richards said that the lien is filed against any proceeds from any action or claim filed against an insurance company or surety company for an injury. He also confirmed that this type of lien would not be against wages or property, but only against a potential settlement.

Senator Werk asked about the definition of “injured person” as he did not see it in the bill. **Mr. Richards** stated that he, too, did not see that definition and did not know if a definition was included in other statutes.

Senator Goedde asked to be led through the mechanics of the lien process and wanted to know if Chiropractors would operate under the same system as other providers. If a Chiropractic physician has lien rights, would that physician go directly to the insurance carrier and totally avoid the patient as far as information on treatment and bills? **Mr. Richards** stated his understanding is that ordinarily, when this type of lien is filed, the bills are accumulated, the lawsuit is settled, the insurance company and attorneys resolve what is reasonable, and the lien(s) that are covered under current law are paid. Chiropractors would operate under this same system.

Dr. Martin Donaldson is a Chiropractor in Nampa and represented himself in support of this bill. He explained that his business has been damaged by the lack of ability to be paid by patients receiving his care, and he loses thousands of dollars yearly on personal injury cases. **Dr. Donaldson** feels that current law provides loopholes allowing the patient to not have to pay the Chiropractor when settlement is made. The patient is told they will receive a certain amount of money in settlement, but they are not told that all of their medical bills are not being paid. He is not certain whether he will continue to take personal injury cases, because he cannot continue to lose money anymore.

Allyn Dingle was speaking against this legislation. First, he clarified that the primary person responsible for paying the services provided by a hospital, doctor, or a chiropractor is the patient. Hospitals will aggressively go after their liens, while doctors do not. The first party (insurance carrier in cases of car accidents) will pay the medical bills. They pay the hospitals, doctors, and chiropractors if they get sufficient proof that the services are related to the injury. There is no reference in the *Idaho Code* that defines “injury.” An injury is in the eyes of the beholder. There is a burden of proof on the proponent of this legislation to justify why there is a need for this particular legislation. **Mr. Dingle** went into a full description of all the kinds of liens that are available. He then touched on Chiropractic liens established in other states, contending that does not mean that this is a correct and wise thing to do. He acknowledged that not all Chiropractors are getting paid, but sometimes he doesn’t get paid either; and that is no reason to grant lien authority.

Ron Tucker is a claims adjuster for State Farm Insurance Company. He attended this Committee meeting to speak in opposition to this bill. **Mr. Tucker** gave a short biography and then stated that there are more checks paid to chiropractors than to any other provider. He referred to an earlier statement by **Mr. Wheeler** that this was a very restricted lien bill and he personally disagrees. In regard to peer review, he has been very disappointed in the results of peer review outcomes. Any time there is a

lien in place, it complicates the settlement of a claim; it is not a simple process.

John C. Downey, a Chiropractor from Caldwell, submitted written testimony to support S 1372. Settlements in injury cases are based on the provider's bill. Sureties curtail their expenses by causing settlements to be paid directly to victims and attorneys. The net result is that victims don't pay the providers that are not covered by a lien, sureties end the claim, and attorneys get paid without litigation and additional expense. Hospitals and medical providers have been protected by the law, and so should Chiropractors.

MOTION:

Senator Broadsword moved to send S 1372 to the Senate floor with a do pass recommendation. **Senator Compton** seconded the motion.

Senator Werk stated he did not feel he had received much clarity from either side of this issue. It was his observation that there is a bias that Chiropractors provide a less effective service to the patient than other physicians; and he did not have a clear picture of "where this is going."

Senator Broadsword asked to hear from the bill sponsor regarding a mistake in the Statement of Purpose (SOP). **Mr. Wheeler** stated that the error is in the first sentence of the second paragraph; the third word "patients" should be "physicians" and that can be corrected.

Senator Coiner stated that he saw nothing in the testimony to show that Chiropractors were doing something improper any more than any other provider. He asked if there never was a hospital or doctor that the insurance company thinks might be over-treating patients. **Senator Coiner** didn't see a problem with Chiropractors having the same opportunity to add their name on the list of providers to be paid directly, instead of having to rely on their patients.

Senator Compton stated he did not feel he received a direct answer when asking Mr. Barber to explain why he did not like this bill. With regard to liens, he could see no reason a Chiropractor should not have the same authority as other providers, and he is in favor of the bill.

Senator Goedde advised that he could envision a potential problem, and provided an example where the patient receives a long term injury, receives treatment by a Chiropractor and the bill is "padded." The patient gets paid after the Chiropractor, and that leaves the patient with less money to live on. **Senator Goedde** did not see the connection between lien rights and abuse of bills.

Senator Broadsword gave a personal example of her experience with a Chiropractic physician and a medical physician when she had a "fender bender." The physician sent her to physical therapy (PT) and the therapist had her return for 20 treatments, but they could not fix the problem. She went to the Chiropractor for one visit, and she didn't hurt anymore. It was a \$35 bill versus more than \$500 for a physical therapist. Chiropractors today are much more professional and we need to give them the due respect they deserve.

Senator Broadsword called for the question. **Chairman Andreason** asked the Secretary to take a **roll call vote**. There were five no votes (Senators Andreason, Cameron, Stegner, Werk and Malepeai) and four yes votes (Senators Coiner, Goedde, Compton and Broadsword). The **motion failed**.

S 1373

Relating to Leaves of Absence for Organ Donations

Dr. Mike Mallae is a medical physician in Boise and presented this bill to the Committee. His practice involves people with chronic and life threatening conditions. In these cases the gift of life is very important. This bill provides leaves of absence for state employees for organ or marrow donation purposes. **Senator Stegner** wanted to know if there would be an expansion of this bill presented next year. The answer was no.

MOTION:

Senator Werk moved to send S 1373 to the Senate floor with a do pass recommendation. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

S 1410

Relating to Worker's Compensation Exemption for Officials of Athletic Contests

Ken Harward, Executive Director, Association of Idaho Cities, brought this bill to the Committee for consideration. This legislation amends current law to provide the same Worker's Compensation exemption for referees and umpires involved in municipal recreation as currently exists for officials involved with school sports programs. This would result in a significant financial savings.

Senator Goedde stated his surprise that a city would want to absolve itself of a sole source of revenue, and take its chances in District Court for someone that suffers an injury while participating in a municipal sporting event.

Kent Rock, Boise City Treasurer, responded that current practice is to contract for off-season services with the same officials that provide this service to the school system. They have health care insurance, not Worker's Compensation, and the officials say they are independent contractors. The City is not in a position to make the final decision on whether that designation is accurate or not. The City is interested in clarification about the claim of independent contractors, and if they can be treated the same as the school system treats them. Rates are particularly high in contact sport events, and this cost is added onto the contract which increases the costs to the City.

Senator Goedde mentioned the point that the recreation officials might be in the same category as NFL officials. **Mr. Rock** agreed. In fact, recreational officials are rated by insurance actuaries at the same rate as NFL officials and players. The legislature has made the decision that exemption from Workers Compensation coverage is alright for school officials and **Mr. Rock** thinks it is a good idea to extend that exemption to recreational officials. **Senator Malepeai** reiterated that the high school officials are exempt and the city wants to do the same thing. The officials are private contractors to the high school as well as private contractors to

city recreation.

MOTION: **Senator Malepeai** moved to send S 1410 to the Senate floor with a do pass recommendation with the explanation that all this bill is requesting is the same exemption given to the high schools. **Senator Werk** seconded the motion.

Senator Stegner commented that he disagreed with this motion. He has some experience with high school and recreation sports, and it has been his experience that the people who officiate tend to donate a tremendous amount of personal time and commitment to make a meaningful experience for the people who participate. He feels it should be a policy to provide Worker's Compensation coverage to every worker in the State. He stated that there might be other remedies available to address this issue. **Senator Malepeai** asked why high schools were exempt. There was not an explanation.

SUBSTITUTE MOTION: **Senator Goedde** made a substitute motion to hold S 1410 until Tuesday, February 28, 2006 for further review. **Senator Coiner** seconded the substitute motion. The motion carried by **voice vote**.

S 1411 Due to time constraints, **Chairman Andreason** carried S 1411 over until the Committee meets on February 28, 2006.

ADJOURNMENT: **Chairman Andreason** adjourned the meeting at 3:10 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 28, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: None

GUESTS: The sign-in sheets will be retained in the Committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

CONVENED: **Chairman Andreason** called the meeting to order at 1:31 p.m.

GUBERNATORIAL APPOINTMENTS: **Chairman Andreason** introduced **Richelle Sugiyama**, Gubernatorial Appointee to the Idaho Endowment Fund Investment Board. **Ms. Sugiyama** is currently employed as an investment officer for the Public Employee Retirement System of Idaho (PERSI). She discussed her previous investment experience as a staff member to the Endowment Fund, and stated that her work with investment managers and consultants has provided a wide range of practical experience that she will bring to the Idaho Endowment Investment Board. With no questions from the Committee, **Chairman Andreason** thanked **Ms. Sugiyama** for her presentation and advised that the Committee would take action on her appointment during the next meeting.

Chairman Andreason introduced **Susan Simmons**, Gubernatorial Appointee to the Idaho Endowment Fund Investment Board. **Ms. Simmons** said that she is honored to be appointed to this Board. She discussed her prior years of experience as a budget analyst with the State Department of Finance and her current position as an administrator with the Department of Transportation, stating that this has given her the investment knowledge needed for this appointment. **Ms. Simmons** has also served more than nine years on the Public Employee Retirement System of Idaho (PERSI) Board. With no questions from the Committee, **Chairman Andreason** thanked **Ms. Simmons** for her presentation and advised that the Committee would take action on her appointment at the next meeting.

S 1410 **Workers Compensation Exemption for Officials of Athletic Contests**

Mr. Ken Harward addressed the Committee on behalf of the Idaho Association of Cities. This bill was carried over from the meeting on Thursday, February 23, 2006. Since that time, Mr. Harward has been

working with **Senators Goedde, Stegner and Malepeai** to explore other strategies to achieve a reduction of Workers Compensation costs for municipal agencies utilizing independent contractors as officials/referees for various municipal recreational programs.

Senator Goedde stated that there is a method to petition the National Council on Compensation Insurance (NCCI) to create a separate class for these types of officials in the State of Idaho. A separation of the high school and parks and recreation type of activities from the professional and college activities should result in a substantially lower Workers Compensation rate.

**UNANIMOUS
REQUEST:**

Mr. Harward requested that the Committee hold S 1410 without action at this time. **Chairman Andreason** put forth a **unanimous consent** request to hold S 1410 in Committee until further notice. There were **no objections**.

S 1411

**Public Employee Retirement System of Idaho (PERSI) Board
Members, Indemnification**

Mr. Alan Winkle, Executive Director of PERSI, addressed the Committee. A written copy of **Mr. Winkle's** testimony is included in these minutes as Attachment #1. This legislation will reconcile and coordinate the protections provided to PERSI Board Members under the PERSI statutes and the Tort Claims Act. This is a technical issue, but also very key to the ability of PERSI to acquire and retain the services of high-quality Board members and staff to administer this retirement fund.

Mr. Winkle then addressed questions from **Senator Goedde** and **Senator Werk** regarding the handling of claims that would fall within the Tort Claims Act, and why this legislation does not cover all of the other boards within the State of Idaho. **Mr. Winkle** advised that the size of the PERSI trust fund and the number of Board members places them in a unique situation, and he presented some examples of where and how this indemnification would apply.

Senator Cameron stated that considerable effort has been put forth by Idaho's Governors to appoint "some of our best and brightest" individuals to the PERSI Board, including chief executive officers of major corporations and business owners. These are people of great integrity and some are also with good financial means; and, without this legislation to safeguard their personal and corporate assets, they will no longer be able to serve on the Board. **Senator Cameron** acknowledged that the Board members provide these services "on their own time" and he does not believe it is appropriate to place their personal assets at risk.

MOTION:

Senator Compton made the motion, and **Senator Coiner** seconded, that S 1411 be sent to the Senate floor with a do pass recommendation. The motion carried by a **voice vote**.

H 578

Employment Security Reserve Tax

Mr. Bob Fick, Communications Manager for Idaho Department of Commerce & Labor, addressed the Committee regarding this bill.

Mr. Fick distributed copies of the Idaho Commerce & Labor Special Administration Fund Annual Report dated April 15, 2005, and a list of the companies that have used the local office in just the first six weeks of this year. This legislation is part of the March 20, 2006 Department's plan to maintain continued access to programs and services in the face of multimillion dollar reductions in federal funding for unemployment insurance, client services, Workforce Investment Act, and other labor programs.

This bill increases the proportion of the combined Unemployment Insurance (UI) Trust Fund invested by the State of Idaho, as opposed to the Federal Government's Trust Fund. Both of these funds are used to pay unemployment insurance benefits; but, the interest earned on the fund maintained by the State of Idaho is deposited into the Special Administration Fund and can be used to administer department programs. This money would otherwise go to Idaho's Washington, D.C., Trust Fund.

Interest earned on the Reserve Fund in Idaho will increase revenue to the Special Administration Fund, which will be used to pay expenses incurred in the administration of the Department's programs, including the Commerce Division's share of indirect costs. Without this bill, the Commerce Division's indirect costs would have to be paid from the State of Idaho General Fund. **Mr. Fick** then introduced **John McAllister**, Deputy Director of Idaho Department of Commerce & Labor, to address specific budget questions from the Committee.

Mr. McAllister explained that the Department regularly prepares four-year forecasts. These forecasts have proven very useful and accurate in determining future problem areas. He discussed current funding allocations from federal grants and explained that recent re-organization of employment and training programs provided by the federal government would reduce funding to the State of Idaho by 50%. He addressed how the loss of this funding would affect the Department over the next few years. This bill is necessary to avoid a reduction in services and the closure of local offices.

Chairman Andreason asked **Mr. McAllister** to quantify the percentage of staff that would be impacted by this loss of federal funding. **Mr. McAllister** advised that Labor and Field Services staff would be reduced by approximately 25% to accommodate the loss of federal revenue if this legislation is not enacted. **Chairman Andreason** asked **Mr. McAllister** how the staff reduction would affect the Department's ability to provide required services. **Mr. McAllister** stated that the Department would be required to centralize functions and re-engineer processes to become more efficient, but the quality of services would certainly be adversely affected.

Mr. McAllister addressed questions from **Senator Werk** and **Senator Goedde** regarding specific divisions affected by the loss of federal funding, and the cost savings which has been realized through the elimination of the Local Workforce Development Boards.

Senator Compton commented on the apparent “going out of business strategy” of the Federal Government stating, “If you’re doing well, we’re going to cut your funds. And, if you continue to do well, we’ll continue to cut your funds until we get you down to the point where you stop doing well. And then, we might consider raising your funds.” He stated that any business or marketing programs using this same strategy would be doomed to failure and soon out of business.

Senator Compton discussed the importance of the Department of Commerce & Labor to the economy of the State of Idaho. He asked if the Department had requested sufficient funding through the Joint Finance-Appropriations Committee (JFAC) to insure continuation of operations through this next fiscal year. **Mr. McAllister** stated, “We asked for everything we thought we needed in order to do a good job.” He advised that the Department also requested \$9 million in Reed Act money for Labor and Field Services to “buy time”; there is another \$15 million remaining in the Reed Act Trust Fund that can be used in the future, if needed.

Senator Goedde asked if the Reed Act Trust Fund becomes depleted, would employers’ costs be raised to replenish the trust. **Mr. McAllister** stated, “If the trust fund were to become low, then that means that our workload has gone back up, and we won’t have a problem.”

Mr. Fick stated that as Idaho’s unemployment rate maintains its record low level, the local offices have started to shift their focus from finding jobs for workers, to finding workers for employers. There are labor shortages in some parts of the state; and the Department has focused more effort on training to elevate the skills of the workforce and improve the skill base for the employers. **Mr. Fick** stated that the Idaho Retailers Association and the National Federation of Independent Businesses (NFIB) support this legislation.

Senator Cameron stated that most of the budget for the Department of Commerce & Labor has been set by JFAC. The \$9 million of Reed Act funds has been approved, as well as most (but not all) of the budget requested. He stated that there may be a few other issues that need to be addressed, however, he wished to note that Director **Roger Madsen** has done a very good job in the realignment of the Department of Labor and the Department of Commerce. This was a difficult endeavor and **Mr. Madsen** has done an excellent job “wearing two hats.” **Senator Cameron** stated that this legislation will provide approximately \$1 million in interest per year, and he commends the Department for “looking outside the box” to address Department revenue needs.

MOTION:

Senator Cameron made the motion, and **Senator Malepeai** seconded, that H 578 be sent to the Senate floor with a do pass recommendation. The motion carried by a **voice vote**.

H 452

Purchasing/Bid Cancelled/Procedure

Mr. Jan Cox, Administrator for the Division of Purchasing, Department of Administration, addressed the Committee. This legislation was developed in response to long-standing concerns by vendors relating to the public release of information submitted for bids or requests for proposals (RFP's) that are later withdrawn by the Department. This is not an issue when a contract is awarded; however, when a bid is cancelled and there is no contract awarded, the information is still public and available to competitors. Also, information provided in response to a request for proposal may be quite extensive and provide a "window" into the operations of business that would not otherwise be available. This may relate to methods of operations, pricing methodology, and other information that is considered confidential to the company.

H 452 would allow the Division of Purchasing to return information to the vendor when a bid is cancelled. The record of the solicitation and the reason for the action would remain in the file, but the revealing information would not become part of the record and would not be available to competitors.

Senator Cameron asked **Mr. Cox** to cite some reasons why the Division of Purchasing would decide to cancel a bid after they had already solicited to vendors. **Mr. Cox** replied that the most common reason for canceling a bid would be when, in the course of evaluating the bid and looking at the response requirements, it is discovered that there is a problem with the specifications. For example, industry may have "moved on" and now do some things differently, in which case the specifications of the bid would need to be revised accordingly. Sometimes the Division of Purchasing receives "spec appeals" which will also require review and revision of specifications. Also, if only one or two bids are received and are non-responsive, then the Division of Purchasing will go back and review the structure of the bid and solicit again for the service.

Senator Werk asked whether this issue has impeded the Division's ability to solicit bids. **Mr. Cox** replied yes, and on occasion they will receive "kickback or pushback" by vendors stating they do not want to provide a particular bid "because they don't want to expose themselves to having this information provided to competitors." **Mr. Cox** advised that as most contracts are for multiple-year periods, "contract information becomes dated" and is not immediately useful to a vendor's competitors; however, if a bid is cancelled and re-issued within a day or a week, then the information is current enough to be used by competitors and may place the vendor at a disadvantage.

MOTION:

Senator Goedde made the motion, and **Senator Compton** seconded, that H 452 be sent to the Senate floor with a do pass recommendation. The motion carried by a **voice vote**.

H 585

Insurance, License Denied, Hearings

Mr. Shad Priest, Deputy Director of the Department of Insurance, addressed the Committee regarding this bill. The purpose of this legislation is to establish clear, uniform procedures in a single code section pertaining to license applications and application denials. This

clarifies the right to a hearing on the license denial and also requires a hearing prior to license suspension or penalties to licensed individuals.

Senator Goedde asked who would be responsible for the cost of the hearing. **Mr. Priest** stated that the hearing costs would be borne by the Department of Insurance; and, in most cases, an outside attorney is hired as hearing officer.

Senator Goedde asked how many licenses are denied per year. **Mr. Priest** introduced **Thomas Donovan**, Deputy Attorney General for the Department of Insurance, to address that question. **Mr. Donovan** stated that the number of denials fluctuates year to year; however, he estimates there are between 10 and 20 denials per year for producers. These are published in the Director's annual report, along with the number of hearings. He estimated there are about two to three hearings per year.

MOTION: **Senator Goedde** made the motion, and **Senator Cameron** seconded, that H 585 be sent to the Senate floor with a do pass recommendation. The motion carried by a **voice vote**.

H 586 Insurance Admin, Certificates

Mr. Shad Priest, Deputy Director of the Department of Insurance, addressed the Committee regarding this bill. This legislation deals with an existing section of the insurance code governing third-party administrators. An "administrator" is defined as "a person who collects charges or premiums from, or adjusts to settle claims on, residents of this state in connection with life or health insurance coverage or annuities." The typical activities would include collection of premiums on a health insurance policy, processing claims, and/or making claim payments to the insureds. Idaho law requires that these individuals be licensed and bonded with the State. This bill deals with the administrative licensing fees, renewals, and late penalties for late renewals. The deadline for renewal has been changed to correspond with the date of license expiration; licenses will be issued every two years instead of annually; and the late filing fee will increase from \$50 to double the amount of the unpaid renewal fee, which is currently \$80.

MOTION: **Senator Coiner** made the motion, and **Senator Werk** seconded, that H 586 be sent to the Senate floor with a do pass recommendation. The motion carried by a **voice vote**.

ADJOURNMENT: The meeting was adjourned at 2:53 p.m.

Senator John Andreason
Chairman

Olga Coply
Secretary

**Testimony of Alan H. Winkle, Executive Director,
Public Employee Retirement System of Idaho (PERSI)
S 1411 – PERSI Indemnification Legislation**

As you are aware PERSI is governed by a five member Board who is designated by statute as trustees and fiduciaries of the fund. By trust and fiduciary standards the Board is personally responsible, both individually and collectively, for the management of the system and its \$9.5 Billion in assets and almost \$12 Billion in liabilities. Recognizing this fiduciary responsibility and the potential exposure to liability it created, the PERSI statutes have provided since their inception that Board members will be indemnified against claims related to the scope and performance of their duties, but recent events both in the state and affecting public plans in other states have raised concerns about the adequacy of protection provided by the PERSI indemnity statutes. These issues include the scope of protection offered by the statutes and whether individual insurance policies held by Board members might be pursued for subrogation claims.

In addition, since the Tort Claims Act was passed (after the PERSI statute), there has never been any attempt to reconcile or coordinate the protections provided in that Act with those provided in the PERSI statutes. Unless these issues are resolved qualified individuals will be reluctant to serve as Board members or in key staff positions.

At the direction of the Board, PERSI has worked closely with the Attorney General's Office and the state Office of Risk Management to review and reconcile the protections provided to the PERSI Board. Some of the issues are being addressed administratively through amendments to the Risk Document and through policy memorandums with the Attorney General's Office. Other issues that can only be resolved through amendment of the PERSI indemnity statutes are addressed in this bill. This bill:

- Provides that the PERSI indemnification statutes apply only if defense and indemnification under the Tort Claims Act are not provided. This reconciles the potential overlap between the Tort Claims Act and the PERSI law.
- Reconciles the requirements for defense and indemnification with the Tort Claims Act language. In other words the actions must be within the "course and scope of their official duties" and must not be "intentional, willful or wanton misconduct, fraudulent or a knowing violation of law." This language is similar to the Tort Claims Act.
- Provides that a claim for reimbursement will not be made against any covered person (the personal insurance of the Board, staff, etc) unless the court determines they acted outside the course and scope of their official duties or ...(see above).

- Authorizes the Board to provide defense and indemnity as fiduciaries of the trust and at the expense of the trust. It also permits the Board to refuse defense or indemnification or defense with reservations of rights. All actions within the scope of fiduciary duties. The Board is allowed to purchase insurance to cover those risks that fall outside the Tort Claims Act.
- Reconciles the language in 59-1308(12) – which applies to the Choice Plan – with the language in 59-1305. It does this by referencing 59-1305 as the standard.

This is a technical issue but also very key to PERSI acquiring and retaining the services of high quality Board members and staff to administer this retirement fund.

ATTACHMENT #1

Senate Commerce & Human Resources Committee

Minutes - February 28, 2006

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MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 2, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk

MEMBERS ABSENT/ EXCUSED: Senator Malepeai was excused from this meeting.

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

CONVENED: **Chairman Andreason** called the meeting to order at 1:37 p.m.

MINUTES: **Senator Stegner** moved to approve the minutes of February 7 and February 14, 2006, as written and corrected. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENTS: **Chairman Andreason** asked for questions or comments from the Committee on the appointment of **Richelle Sugiyama** to the Idaho Endowment Fund Investment Board for a term commencing February 8, 2006 and expiring April 11, 2009. Ms. Sugiyama appeared before the Committee on Tuesday, February 28, 2006.

Senator Compton moved to send the appointment of **Richelle Sugiyama** to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that the appointment be approved by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

Chairman Andreason asked for questions or comments from the Committee on the appointment of **Susan K. Simmons** to the Idaho Endowment Investment Board for a term commencing February 8, 2006 and expiring April 11, 2009. **Ms. Simmons** appeared before the Committee on Tuesday, February 28, 2006.

Senator Werk moved to send the appointment of **Susan K. Simmons** to the Idaho Endowment Investment Board to the Senate floor with the recommendation that the appointment be approved by the Senate. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

RS 15913

Relating to Volunteer Public Safety Officers

Chairman Andreason requested Unanimous Consent from the Committee to send RS 15913, sponsored by Senator Gary Schroeder, to the Senate Judiciary & Rules Committee for Print. Objections were received from **Senators Stegner, Werk and Goedde**. **Chairman Andreason** advised that RS 15913 would be returned to the sponsor.

Chairman Andreason introduced **Stephen Keys**, Bureau Chief, Division of Building Safety, to present House Bills 548, 549, 550, 551, and 554. A copy of **Mr. Key's** testimony is included in these Minutes as **Attachment #1**. The two charts (HB551-01 and HB551-02) are included with the original Minutes as **Attachment #2**.

H 548

Electrical Contractors, Insurance

This bill was drafted in response to industry requests following the imposition of insurance requirements for electrical contractors last year. This bill amends *Sections 54-1009 and 54-1013, Idaho Code*, to allow for a contractor in Idaho to renew his license as "inactive" without providing proof of liability insurance and workers compensation. The current fee schedule for licenses would remain, with the addition of a \$30 processing fee to convert an "inactive" license to "active" status.

Senator Cameron asked whether the Administrator of the Division currently has the authority to revoke or suspend a license. **Mr. Keys** advised yes, there is an administrative procedure (through a hearing process) to allow the Administrator to suspend/revoke a license. The purpose of including this information in the *Idaho Code* is an attempt to clarify that revocation can occur due to failure to maintain the required liability and workers compensation insurance, in addition to other reasons.

Senator Goedde provided a comparison of this bill to the requirement for operators of motor vehicles in the State of Idaho to maintain liability insurance. It is a common practice for some people to purchase the insurance policy for a month (just long enough to establish coverage) and then allow the policy to lapse. He stated that it makes sense to require electrical contractors to provide proof of this coverage; however, it is not going to stop an individual from allowing the policy to lapse without the controlling board receiving notification.

Discussion followed, with **Senator Broadsword** requesting additional clarification from **Senator Goedde** regarding board notification, etc. **Senator Cameron** asked **Mr. Keys** to identify the individuals who would fall into the category of needing "electrical specialty contractor licenses" and what the "specialties" would include. **Mr. Keys** advised that the specialties cover a wide range from pump installers, well drillers, limited energy, and several other categories, but not the mainstream electricians; the specialties are limited in scope to what they can do.

Senator Cameron discussed an issue earlier this year involving “low voltage speciality contractors” and the rejection of a rule docket. **Senator Cameron** stated it was his understanding that a statute would be forthcoming to remove these individuals from the licensing requirement. He asked if this bill would give the Administrator the ability to “yank a license from someone who is installing a computer” if they do not have liability coverage. **Mr. Keys** advised there is currently no basis for licensing a computer installer and, as far as the status of the process to develop a statute regarding communications installers, the initial meeting is scheduled for March 3, 2006.

Senator Broadsword asked if the Statement of Purpose should be revised to include the power of the Administrator to revoke or suspend licenses. **Chairman Andreason** stated that his current understanding regarding Statements of Purpose is unclear. **Senator Compton** stated that “the bill speaks for itself.” **Senator Werk** commented that anyone presenting legislation might want to include “those interesting provisions” within the Statement of Purpose to allow for a person to easily scan and understand what the legislation will do. **Senator Cameron** suggested that a revised Statement of Purpose could be requested, if necessary.

Senator Stegner asked if liability insurance is a condition of licensing for an electrical contractor and if this is spelled out in Rule. **Mr. Keys** confirmed that the Rule is explicit in the licensing requirements. **Senator Stegner** suggested that it is implied, and there is an assumption, that the Administrator has the authority to revoke a license if these requirements are not met; therefore, this is not a significant change in policy. **Mr. Keys** stated that the provision was included in the legislation on the advice of the Attorney General, who felt that the existing language was not specific enough. He agreed, however, that this is not a change in policy, but just putting into the code what is fairly obvious and has actually been the policy of the State of Idaho for some time. **Senator Stegner** stated that he felt that the Statement of Purpose was adequate, because paragraph 2 under Section 54-1009 is not significant in terms of the purpose of the bill but is merely a clarification.

MOTION: **Senator Stegner** made the motion, and **Senator Compton** seconded, to send H 548 to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

H 549 **Electrical Contractor/License/Renew**

This bill amends *Section 54-1008, Idaho Code*, and directs the Electrical Board to promulgate rules allowing for a staggered system of issuing and renewing licenses. Currently, the law allows staggered renewals for journeymen licenses only. Staggering of renewal dates will allow for much more efficient operations and minimize delays in handling renewals. Fees for licensure and registration are not affected by this legislation

MOTION: **Senator Goedde** made the motion, and **Senator Werk** seconded, to send H 549 to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

H 550 Elevator Safety Fund Created

This bill amends Chapter 86, Title 39, establishing the Idaho Elevator Safety Fund. This would be a dedicated account for all monies generated by the previously established elevator inspection program. The funds would be set aside and appropriated to finance carrying out the provisions of the Idaho Elevator Safety Code Act.

MOTION: **Senator Broadsword** made the motion, and **Senator Compton** seconded, to send H 550 to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

H 551 Public Works Contractor/License Fee

This bill was formulated by the Public Works Contractors Licensing Board and amends *Section 54-1904, Idaho Code*, raising the ceiling on most fees that the Board may impose by administrative rule for various license classes.

The Board feels that it needs the flexibility to adjust license fees in order to ensure that adequate funding is available to meet the projected increase in staffing costs due to recent changes in Chapter 19. **Mr. Keys** referred to the revenue charts and spreadsheets included in Attachment #2.

The Public Works Contractors Task Force anticipated that there would be a funding deficiency and noted that fees would have to be adjusted in order to fund the program. **Mr. David Bennion**, Chairman of the Public Works Contractors Licensing Board, and **Mr. Michael Gifford**, Executive Director of AGC, were present at the meeting to represent the task force, if needed.

Senator Broadsword asked why, if it is necessary to raise all of the license fees, that the Class D was being reduced from \$75 to \$60. **Mr. Keys** stated that the purpose of the reduction was to encourage more of the “small” contractors to apply for a license. **Senator Cameron** noted that this fee reduction was part of the overall discussion when the bill was proposed “to bring things into alignment with public works contractors.”

MOTION: **Senator Cameron** made the motion, and **Senator Stegner** seconded, to send H 551 to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

H 554 Building Safety Administrator/Duties

This legislation updates *Section 67-2601(2)(d), Idaho Code*, to more accurately reflect the responsibilities of the Administrator of the Division of Building Safety; codifies the existence of “deputy administrators”; updates *Chapter 40, Title 39, Idaho Code*, replacing multiple references to “director” with the proper title of “administrator”; and identifies the specific federal standard (24 CFR 328) that defines “manufactured home” instead of relying on general references to “national standards” and “the use of the term in the industry.” References to “mobile home” and “recreational vehicles” have been removed, as the recreational vehicle program was

discontinued many years ago and "mobile home" is an outdated term.

Senator Broadsword questioned if the manufactured housing builders were consulted with regard to this legislation. **Mr. Keys** said yes, this group was consulted and involved in this legislation.

Senator Werk commented that he had received "a very strange email" discussing the addition of "deputy administrators." He asked if this would apply to existing deputy administrators or whether there was a plan to develop new deputy administrators. **Mr. Keys** advised that there is currently only one deputy administrator, and introduced **Mr. John McAllister**, Deputy Administrator, to more fully address this issue.

Mr. McAllister advised that he is currently working as the Director of the Labor Division and as Deputy Administrator for the Division of Building and Safety. It is his hope to have one administrator in charge of the "administrative" functions of the Division and another administrator over the "operations" functions. This is the reason for including this language in the bill.

Chairman Andreason recognized **Mr. Gary Ziggler**, a plumbing contractor in the State of Idaho and a member of the Treasure Valley Master Plumbers Association and the International Association of Plumbing and Mechanical Workers. He stated that this legislation appears to be a general "housekeeping bill" but is "open-ended" to allow "a cloning of deputy directors." He is opposed to the addition of multiple deputy directors.

Senator Werk asked **Mr. Ziggler** to clarify his specific concern with this bill and the addition of staff. **Mr. Ziggler** stated there is a real need for additional inspection staff in all areas, such as "electrical, plumbing and HVAC inspectors." These positions are needed much more than additional administrators. He is not opposed to "the addition of one deputy director," but "the wording is open-ended and it looks like it could be multiple" deputy directors added to staff.

Mr. Jack Lyman addressed the committee on behalf of the Manufactured Housing Association. He advised that the organization first learned of this bill when it was introduced in the House of Representatives; therefore, he does not understand **Mr. Key's** reply to **Senator Broadsword's** question of whether the industry had been consulted and involved in the drafting of this bill. **Mr. Lyman** provided a copy of the legislation to the Executive Director of the Manufactured Housing Association; and, although there were no immediate concerns noted, he wanted to clarify that the Association was not advised, consulted, or involved in the drafting of this legislation.

Senator Broadsword directed a question to **Mr. McAllister** regarding the references at lines 29-33 on page 4 of the bill. She asked if public works contractor licensing has always been tied to this provision. **Mr. McAllister** introduced **Jack Rayne**, Bureau Chief for Division of Building Safety to address this matter. **Mr. Rayne** advised that references were

left out when the statute was first written in 1975, and this bill is attempting to include all of the agencies overlooked in the 1975 legislation.

MOTION: **Senator Goedde** made the motion, and **Senator Werk** seconded, to send H 554 to the Senate floor with a do pass recommendation. The motion carried by **voice vote**.

ADJOURNMENT: The meeting adjourned at 2:15 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary

**Testimony Presented by Stephen Keys,
Bureau Chief, Division of Building Safety
House Bills 548, 549, 550, 551 and 554**

Mr. Chairman and members of the committee, my name is Steve Keys, I am a Bureau Chief at the Division of Building Safety, and it is my pleasure to present legislation formulated by our agency and boards.

House Bill No. 548 was formulated in response to industry requests following the imposition of insurance requirements for electrical contractors in legislation last year. This legislation amends **Idaho Code Section 54-1009** and **Section 54-1013** to codify the ability of the holder of a contractor's license, who is not currently acting as a contractor in Idaho, to renew his license as "inactive" without **providing proof of liability insurance and worker's compensation** insurance. Many legislators have recognized the need for this legislation, and encouraged its development.

Under this bill, a ceiling of \$150 is imposed on an inactive license renewal. Currently the licensing fees outlined in **Section 54-1 014** are \$125.00 for a new or revived license, and \$100.00 for renewal of a contractor's license. These same fees likely would apply if this legislation is approved. This legislation also imposes a \$30.00 processing fee to convert an "inactive" license to "active" status. There would be no charge to convert an "active" license to "inactive" status. Proof of insurance coverage must be submitted with the request to change from "inactive" to "active" status.

House Bill No. 549 amends **Idaho Code Section 54-1008**, and directs the Electrical Board to promulgate rules allowing for a staggered system of issuing and renewing licenses. Currently the law allows for staggered renewals of journeyman licenses only. This legislation would allow the Board to stagger other renewals, and allow the Division to better distribute work loads across the calendar year. Under present law, both contractor licenses and apprentice registrations renew in July. We believe the staggering of renewal dates will allow for much more efficient operations and minimize any delays in handling renewals. Fees for licensure and registration are not affected by this legislation.

Journeyman electrician licenses are presently staggered based on alphabetical order of last names. HVAC and plumbing licenses are staggered based on dates of birth. The Electrical Board, with input from management will determine by rule which method of staggering will be used for the contractor and apprentice categories.

House Bill No. 550 amends **Chapter 86, Title 39**, establishing the “Idaho Elevator Safety Fund”. This fund would be a dedicated account for all monies generated by the elevator inspection program that was previously established, and would be set aside and appropriated to finance carrying out the provisions of the Idaho Elevator Safety Code Act.

House Bill No. 551 was formulated by the Public Works Contractor*s Licensing Board, and would amend **Section 54-1904, Idaho Code**, raising the ceiling on most fees that the Board may impose by administrative rule for the various license classes. Given the recent changes in Chapter 19, and the projected increase in staffing costs, the Board feels that it needs the flexibility to adjust license fees in order to ensure adequate funding is available. At the same time, the Board has recognized that the current \$75 cost of a small (Class D) contractor*s license should be reduced to encourage more contractors to participate on small public projects.

Revenue for Public Works Contractor Licensing in FY2005 was \$309,800, with an appropriated budget for FY2006 of \$648,600. The dedicated fund balance was \$565,241 as of 1/31/06. We have included information on the pages **HB 551-01/02** of this handout detailing the current revenues broken down by classification, along with the maximum revenues that would be generated given the current number of licenses issued in the corresponding classes.

The Public Works Contractors Task Force, which pushed the changes in the Public Works Contractors Licensing law last year, is represented here today by Mr. David Bennion, the Chairman of the Public Works Contractors Licensing Board, and Mr. Michael Gifford, the Executive Director of AGC. , The chairman of this committee, Senator Andreason, also was a primary participant in the task force. The task force anticipated that there would be a funding deficiency, and noted that fees would have to be adjusted in order to fund the program.

House Bill No. 554 updates **Section 67-2601 (2) (d), Idaho Code**, to more accurately reflect the responsibilities of the Administrator of the Division of Building Safety. This legislation also codifies the existence of “deputy administrators”, and updates **Chapter 40, Title 39, Idaho Code**, replacing multiple references to the term “director”, with the proper title of “administrator”. **House Bill No. 554** also identifies the specific federal standard (24 CFR 328) that defines a “manufactured home” instead relying on general references to “national standards” and “the use of the term in the industry”. Any reference to “mobile” homes is removed, as are any references to “recreational vehicles”. The recreational vehicle program was discontinued many years ago, and mobile home is an outdated term

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 7, 2006

TIME: 1:30 p.m.

PLACE: Gold Room, 4th Floor, State Capital Building
Joint Meeting with Senate and House Commerce & Human Resources Committees

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Cameron

CONVENED: **Senator Andreason**, Chairman of the Senate Commerce & Human Resources Committee, chaired the Joint Meeting. The meeting was called to order at 1:30 p.m.

GUESTS: **Chairman Andreason** welcomed the audience (approximately 42 people), and Joint Committee members. The sign-in sheet will be retained with the minutes in the Committee's office until the end of the session, and then will be on file with the minutes in the Legislative Services Library.

DOCKET NO.
17-0208-0602

Relating to the Industrial Commission Temporary Rule

Chairman Andreason read aloud from a written statement he had prepared that summarized the actions taken by both the Senate and House Commerce & Human Resources Committees with regard to the Industrial Commission's initial Temporary Rule, Docket No. 17-0208-0501, and the development of the new Temporary Rule, Version 2, Docket No. 17-0208-0602, and all of the emails and correspondence received from physicians in opposition to these Temporary Rules. This written statement is included in these minutes as **Attachment #1**. Copies of the statement were distributed and available to those in attendance.

Chairman Andreason stated that the purpose of this joint meeting was to provide an opportunity for the Industrial Commission to provide information regarding the Temporary Rule, Version 2, Docket No. 17-08-0602, and address the ongoing efforts of the Industrial Commission and the Idaho Medical Association to resolve the issues of physician reimbursement for Workers Compensation patients. **Chairman Andreason** then introduced **Mr. Tom Limbaugh**, Chairman of the Idaho Industrial Commission.

Mr. Limbaugh provided an informational update from the Industrial Commission regarding the new Temporary Rule that has been adopted and the medical provider fee reimbursement rates. A written copy of **Mr. Limbaugh's** testimony is included in these minutes as **Attachment #2**.

Last year's legislation, House Bill 331, required the Industrial Commission to adopt the Resource Based Relative Value System (RBRVS). The initial conversion factors were to be determined by January 1, 2006, to become effective April 1, 2006.

In developing the temporary rules, the Industrial Commission reviewed information in CPT code groupings and determined conversion factors based on average medical provider billings. The first proposal resulted in a 13% decrease when compared to their current Medata fee schedule that is used in the Medical Fee Dispute Resolution Process. The National Council of Compensation Insurers (NCCI) completed a full analysis applying Medicare's projected medical provider utilization standard. However, since the Idaho Geographic Practice Cost Indices (GPICs) were not adopted, the resulting rate increase would have been 3.3%.

The Industrial Commission submitted a Proposed Rule on September 8, 2005, but conflicting information was received at the public hearings: Employers were stating that the proposed conversion factors would raise their costs, but medical providers were saying that their reimbursements would decrease and they would be forced to discontinue providing any Workers Compensation services. Therefore, the Proposed Rule was left in place and the Commission adopted a Temporary Rule for legislative review. Efforts continued to establish new conversion factors, and 2005 raw data was provided by the State Insurance Fund.

Mr. Limbaugh advised that this continues to be a work in progress. The Idaho Medical Association is continuing to work on additional recommendations and looking at individual procedures within the current group of CPT codes to find additional savings to be applied to procedures which appear to need increased reimbursement. The Idaho Medical Association and the Industrial Commission continue to be open to recommendations, and they have the ability to modify the current Temporary Rule prior to April 1, 2006.

Mr. Limbaugh emphasized that this is a difficult process, and the Industrial Commission is trying to be fair to both employers and employees. They do not want to limit medical treatment and they do not want to increase Workers Compensation costs to employers, and they are committed to resolving this issue. The Commission has the ability to make several modifications and "new" Temporary Rules along the way until this issue is finally resolved.

The Industrial Commission has been notified by physicians with Orthopaedic Associates that they will no longer take new Workers Compensation patients beginning April 1, 2006, unless the Temporary Rule is reversed. **Mr. Limbaugh** stated that it would be very helpful to the Commission if these physicians would provide the actual paid information from the State Insurance Fund for a comparison with the Temporary Rule. However, this information cannot be released without the permission and signature of the physician authorizing the release of this information to the Commission. As of this date, no release forms have been received from any of these physicians.

Representative Ringo questioned the statement that the Commission

can modify the current Temporary Rule, versus the notification by Orthopaedic Associates that they will discontinue services to Workers Compensation patients on April 1st if the current temporary rule is not reversed. **Mr. Limbaugh** advised that Orthopaedic Associates said “reversed” so he assumes that is what they are asking for.

Representative Ringo asked for clarification, as she did not know precisely how to interpret their statement, and if that would mean Orthopaedic Associates would be “withdrawn” as a Workers Compensation service provider. **Mr. Limbaugh** advised that the way he read the letter, and his personal interpretation, “is that if this rule does not go away, and we do not return to business as usual as it is today, they will refuse those patients under Workers Compensation coverage.”

Senator Goedde then addressed the Committee, providing additional information that he had personally asked Dr. Hessing to provide a signed release for payment information from State Fund; however, Dr. Hessing has not returned the signed release form. He asked **Mr. Limbaugh** if he, also, had asked or received signed releases from other physicians. **Mr. Limbaugh** said he had not; however, it would be extremely helpful if the Commission was provided with raw data, per provider, rather than reimbursement averages. The Commission cannot look at provider data unless a release is signed by the provider of services.

Senator Goedde asked how much authority an employer would have in the Workers Compensation area in directing treatment for an employee. And, if a medical provider decides not to provide services for a Workers Compensation patient, can the employer then boycott that medical provider? **Mr. Limbaugh** advised that decision would be up to the Commissioners.

Senator Goedde asked why the dispute resolution language that was included in the first Temporary Rule had been removed from the current Temporary Rule. **Mr. Limbaugh** responded that the current Temporary Rule still contains some dispute resolution language.

Senator Werk commented that most of the correspondence he had received from physicians had been from surgeons. He wondered if comments had been received from a wider range of physicians. The correspondence cited in **Attachment #1** appeared to cover a broad range of physicians and other medical personnel.

Representative McKague asked why there had been a change to the rule at all, if the previous rule was working and everyone was happy. **Mr. Limbaugh** stated that the change occurred as a result of legislation passed in 2005 (H 331). The problem, however, is because there is no medical fee schedule. Currently, we have a fee schedule that is approved only through state rule; and this schedule is not consistent.

Representative McKague asked how the entire process intertwined with the free market, and if this is what the Industrial Commission is trying to find out. **Mr. Limbaugh** explained that a payment system was established by Medicare and based on Current Procedural Terminology (CPT) codes, which are values assigned to all medical services. This system assigns a specific dollar amount to a “unit” and a specific number

of “units” are assigned to each medical procedure. Although the system, which uses one conversion factor, works well for Medicare, it does not work as efficiently for Workers Compensation. Most states use variable pricing to calculate reimbursement.

Discussion followed on the various code systems used for medical billing. **Senator Broadsword** confirmed that CPT codes are being used currently, and she asked why ICD9 codes could not be used. **Mr. Limbaugh** admitted that he did not know about ICD9 codes; however, CPT codes are utilized as part of the Resource Based Relative Value System (RBRVS). A member of the audience responded to **Senator Broadsword’s** question, and stated that CPT codes are procedural codes, whereas the ICD9 system pertains to diagnosis.

Chairman Andreason summarized by stating that this effort continues to be a work in progress. The Commission is attempting to put together an acceptable Temporary Rule that would be ready by approximately April 1, 2006, and the Idaho Medical Association will have their recommendations available within a few days. The Commission will review all of the recommendations and, if they are compatible with the program, the Commission has the ability and authority to adopt a new Temporary Rule or to amend the current Rule. The Industrial Commission will continue working on a new rule after the conclusion of the 2006 legislative session that will be submitted to the legislature for review in 2007.

Senator Goedde asked **Mr. Limbaugh** if an outside, independent firm had been considered to develop conversion factors. **Mr. Limbaugh** responded that a request for proposal has been drafted, and will be circulated nationally, to engage an outside firm to come to Idaho and examine the reimbursement process for all Workers Compensation providers, including hospitals, doctors, and pharmacies, and develop a Rule. **Senator Goedde** noted that the physicians are only about 20% of the payees, and this review by an outside authority would cover all areas of Workers Compensation reimbursement.

Senator McKague commented that at one point an agreement seemed eminent; however, the situation has obviously deteriorated. She is hopeful that if an outside source is brought into the process, then all of the groups concerned would have input and no one would feel they had been neglected in the evaluation process.

Representative Pasley-Stuart stated her concern regarding whether there would continue to be a Temporary Rule and, in the meantime, that doctors will refuse to provide services to Workers Compensation patients. These services are vitally needed by employers and employees; yet, it does not appear that anyone is happy with the present situation, but there has not been any compromise between the interested parties. **Mr. Limbaugh** replied that when the Rule was presented before the House Commerce & Human Resources Committee, there was a wide disparity between the numbers provided by the Idaho Medical Association and those of the Industrial Commission. At that same time, raw data was received from the State Fund and actual payments could be reviewed. The idea was to take this information and move forward so that the

second Temporary Rule could be published in the March Bulletin. Then, all of the parties would have a chance to review and comment, with enough time remaining to change the rule, if necessary, before the deadline.

Representative Schaefer wanted to know how many doctors will be left to provide Workers Compensation services if the ones who have indicated they will discontinue services actually do so. He wanted an estimate of how many physicians will be available to provide services and how many are discontinuing. **Mr. Limbaugh** responded that he is hoping that the numbers to be submitted by the Idaho Medical Association in the near future will be acceptable to most of their members; and it is the wait for this information that is causing a delay in this process.

Representative Schaefer said that he would also like to see the numbers provided to the Industrial Commission by the Idaho Medical Association, as well as the reaction of their members, in order to determine whether there would be a sufficient number of physicians available to carry the load of Workers Compensation cases currently in the system.

Chairman Andreason asked **Robert Seehusen**, Idaho Medical Association, if it was possible for him to provide this information to the Committees. **Representative Schaefer** stated that direct contact could be made with the physicians to determine their response to the new rate information. **Mr. Seehusen** said that he thought it would be possible.

Senator Goedde said he did not think there would be any problem in obtaining care for injured workers. He cited comparative reimbursement rates for Idaho physicians providing Workers Compensation services and the reimbursements received by physicians in other states providing those same services. The physicians in Idaho consistently received higher payments than most of the other states. **Senator Goedde** stated that "in a free market system, even the doctors in Idaho will adjust." He said he would provide a copy of the reimbursement data to Committee members upon request.

As part of the discussion on free market systems, **Representative Matthews** asked **Mr. Limbaugh** if it would be possible to contract with physicians in other states (such as Oregon) if it was cost effective. **Mr. Limbaugh** stated that out-of-state contracts are currently in place already in some parts of Idaho.

Chairman Andreason called on **Mr. Seehusen** to respond on behalf of the Idaho Medical Association. **Mr. Seehusen** thanked all of those involved with the Workers Compensation project. He explained that this is not a simple process, as there are literally thousands of codes used to identify different procedures. Under the second Temporary Rule, it is necessary to go through all of these codes and identify the codes that are related to each category. This is a painstaking process that is being undertaken in order to come up with a system that is fair, will provide some savings, and also maintain the reimbursement for the more technical and/or arduous procedures at a higher rate. He commented that the physicians in Idaho probably do receive some of the highest reimbursement rates in the country; but, at the same time, Idaho probably

has one of the best systems in the country. Patients, when they are injured, can find the best doctors in Idaho to see them right away. What this means for employers, is that patients get immediate care, the hospital stays are shorter, and they get back to work sooner. The bottom line, and what the system is all about, is to get injured people back to work sooner, and that is where the savings are. The Idaho Medical Association does not want to put artificial savings in place that would provide negative results. Workers Compensation cases require more administrative work, more work with case managers, and more work with attorneys, which is considerably more difficult and time consuming than the normal Blue Cross or Regence cases. **Mr. Seehusen** advised that they are very close to agreement, and he will be working very closely with the Industrial Commission to develop a third Rule.

Woody Richards spoke on behalf of the insurance companies. He began by apologizing for the lack of comments from this segment of the industry and thanked the Industrial Commission and the Idaho Medical Association for their work. They are trying to apply the CPT codes and identify the rates that should be reduced and those that should be increased. They are currently working with the Idaho Medical Association to develop a system that is fairly compensable to the medical field, and they will continue to work with the Industrial Commission and the Idaho Medical Association to reach an agreement.

Senator Compton asked if the Idaho Medical Association has informed their physician members of the fact that they are compensated very well for their services, and yet they are threatening to discontinue providing services if they don't get their way. **Mr. Seehusen** said the members are aware of those facts; however, there is a shortage of physicians and they can see other patients in their practice that do not take as much time and effort as Workers Compensation patients.

Senator Goedde referenced the correspondence received from the physicians that allege that Workers Compensation patients take two and a half to three times as much time and expense as other patients. He asked if there are any studies or other statistical data to justify those statements. **Mr. Seehusen** advised that he is not aware of any study information regarding that issue.

**ADJOURNMENT OF
JOINT MEETING:**

The Joint Committee Meeting was adjourned by **Chairman Andreason** at 2:40 p.m. and the members of the House Committee and guests were dismissed.

CONVENED:

The regular meeting of the Senate Commerce & Human Resources Committee was then called to order by **Chairman Andreason** at 2:45 p.m.

H 648

Relating to Worker's Compensation, Employment Defined

Blair Jaynes, Deputy Attorney General for the Idaho Industrial Commission, addressed the Committee regarding this legislation. This bill amends *Section 72-204, Idaho Code*, to ensure that Idaho workers and their families will be protected, and extends the definition of employment

to include all covered private employment.

Mr. Jaynes explained that when the Workers Compensation laws went into effect in 1917, the exemption “Not for Pecuniary Gain” had a very narrow definition that was upheld by the courts. In 2003, a case involving a church and one employee broadened that definition, with the result that workers now could be left without Workers Compensation coverage. Idaho is the only state that has retained this broad exemption, and this bill will eliminate that exemption.

Mr. Jaynes further explained that the definition of “employment” has been extended to include “business, profession” so that all covered private employment would be covered by Workers Compensation. Also, he stated that the word “normally” was confusing, so he requested that the bill be approved for the 14th Order for amendment to remove the word “normally.”

MOTION: **Senator Broadsword** moved to send H 648 to the 14th Order for amendment. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

S 1421 **Relating to Judgments, Money Due, Interest**

Chairman Andreason advised that S 1421 had been removed from the agenda at the request of the Sponsor and would be calendared for consideration at a later date.

H 584 **Relating to Mortgage Brokering, License Required**

Gavin Gee, Director of the Idaho Department of Finance, appeared before the committee to present this legislation. This bill amends *Section 26-3104, Idaho Code*. The purpose of this amendment is to definitively establish that certain unlicensed persons are prohibited from engaging in mortgage brokering, mortgage lending, or mortgage loan origination activities without a license.

MOTION: **Senator Goedde** moved to send H 584 to the Senate floor with a **do pass** recommendation. **Senator Coiner** seconded the motion. The motion carried by **voice vote**.

H 587 **Relating to Idaho Credit Code, Miscellaneous Provisions**

Gavin Gee, Director of the Idaho Department of Finance, presented H 587 before the committee. The purpose of this bill is to amend Idaho law to provide for regulatory relief. The bill substitutes an outdated, cumbersome tax and fee system and eliminates duplication of regulatory oversight of state chartered financial institutions. This is important regulatory relief for over 2,000 small businesses throughout Idaho that provide goods and services on credit. It provides similar relief for regulated financial institutions who will also no longer have to pay taxes and fees and file information because they are already regulated by other state departments or federal requirements. All of these entities are still subject to consumer protection laws.

Mr. Gee explained that this bill eliminates the outdated fee and tax system

for those consumer lenders still covered by the law. That system has been unfair in many respects and will be replaced with an updated system that is much simpler and less costly. The bill also addresses the disadvantages facing those financial institutions that operate as a state charter. State chartered institutions will now be on the same footing as their federal counterparts.

This bill has widespread support from industries subject to the bill and from small businesses covered by the law because of the regulatory relief it provides.

Senator Werk questioned the specific areas of the bill where “civil actions by the department” were stricken, and asked for an explanation of the actions that can be taken by the Department to pursue those guilty of wrongdoing. **Mr. Gee** responded that the Department would retain its ability to enforce the law in all areas not preempted by federal regulations. The Department can still enforce regulations in regard to predatory lenders. All consumer protection laws are retained, as is the Department’s authority to enforce those laws.

MOTION: **Senator Compton** moved to send H 587 to the Senate floor with a **do pass** recommendation. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

ADJOURNMENT: **Chairman Andreason** adjourned the meeting at 2:55 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary



Idaho State Senate

State Capitol
P.O. Box 83720
Boise, Idaho 83720-0081

MEMORANDUM

DATE: March 7, 2006

FROM: Senator John C. Andreason, Chairman
Senate Commerce & Human Resources Committee

TO: Committee Members,
House and Senate Commerce & Human Resources Committees

SUBJECT: Industrial Commission Temporary Rule Docket No. 17-0208-0601

The Industrial Commission's Temporary Rule, Docket No. 17-0208-0501, was rejected by the House Commerce & Human Resources Committee on February 15, 2006, and the Industrial Commission was requested to submit a new temporary rule within two weeks. The Senate Commerce & Human Resources Committee did not conduct a hearing on the original rule.

Temporary Rule Version 2 (Docket No. 17-0208-0601) was drafted on February 23, 2006, with an effective date of April 1, 2006. An informational presentation to discuss the provisions of this temporary rule was scheduled before a joint meeting of both the House and Senate Commerce & Human Resources Committees on Tuesday, March 7, 2006.

A subsequent meeting was held at the request of Molly Steckel, representing the Idaho Medical Association, on March 3, 2006. At that time, it was requested that all testimony or questions with regard to Rule Docket No. 17-0208-0601 be presented to the Committee Chairmen in writing, to be included in the formal record of this meeting. Information submitted as of this date is comprised of the following correspondence, emails and faxes:

FAXES

1. Lewis & Clark Orthopaedic Institute in Lewiston, Idaho, signed by Steve R. Boyea, MS; Gregory D. Dietrich, MD; Timothy J. Flock, MD; Regan B. Hansen, MD; and Marvin R. Kym, MD.

Attachment #1

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Joint Meeting of Senate and House Commerce & Human Resources Committees
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2. D. Peter Reedy, MD, a neurological surgeon in Boise, Idaho.
3. Intermountain Orthopaedic Clinic in Twin Falls, Idaho, from James M. Retmier, MD; William F. May, MD; Blake G. Johnson, MD; and Mark B. Wright, MD.
4. Jeffrey G. Hessing, MD, with Orthopaedic Associates in Boise, Idaho.

E-MAILS

1. Dr. Roman Schwartzman, an orthopaedic surgeon in Meridian, Idaho.
2. Dr. David Lamey, an orthopaedic hand surgeon in Boise, Idaho.
3. Dr. Michael D. Lahey, a physician in Boise, Idaho.
4. Dr. Robert N. Walker, an orthopaedic surgeon in the Treasure Valley.
5. Dr. David Hassinger with Allied Orthopaedics in Meridian, Idaho.

LETTERS

Correspondence was received from physicians and staff with West Idaho Orthopedics & Sports Medicine in Meridian Idaho, signed by the following:

Physicians: Robert G. Hansen, MD; John Q. Smith, MD; George A. Nicola, MD; Charles P. Schneider, MD.

Physician's Assistants: Erin Proctor, PA-C; Jeffrey Smith, PA-C; Craig Jamison, PA-C;

Office Staff: Office Manager Judy Lowe; Assistant Office Manager Andrea Shields; and Insurance Clerk Wanda Spath.

All of the above communications voiced the following concerns in OPPOSITION to the Temporary Rule Docket No. 17-0208-0601:

- (1) Worker's Compensation patients are more difficult to treat, as they are caught in a system that frequently removes from them the ability to make their own decisions regarding their medical care. This same system also places high demands on the treating physician's practice by imposing multiple levels of restrictions, approvals for treatment, and voluminous paperwork well beyond that required for treatment of other patients.
- (2) The conversion factors published are unacceptable to these physicians.
- (3) The extreme reduction in reimbursement to physicians treating Worker's Compensation patients will greatly reduce accessibility to care, as these physicians will no longer be able to provide services to these patients.
- (4) All of these physicians encourage continued efforts to arrive at an equitable conversion factor that will allow injured workers in Idaho to receive the quality of care they deserve.

Attachment #1

Page 2 of 2

TESTIMONY

Mr. Tom Limbaugh
State of Idaho Industrial Commission

The Industrial Commission has adopted a new Medical Provider Fee reimbursement Temporary Rule which is published in the March Administrative Bulletin. I would like to give you a history and an update on this rule.

During the 2005 legislative session, both the House and Senate passed House Bill 331 without a dissenting vote. The bill was signed by the Governor and became law July 1, 2005. This new law requires the Industrial Commission to adopt the Resource Based Relative Value System (RBRVS). The initial conversion factors were to be determined by January 1, 2006, to be effective April 1, 2006.

The fiscal note of House Bill 331 stated “ In theory, workers* compensation rates could be reduced by 2% by passage of this bill”. The Senate adopted a letter of Legislative Intent written by Senator John Goedde. This intent included, “It is understood that overall physician reimbursement may decrease by 10%” and “when setting conversion factors, the Commission must be conscious of the need for access to services for injured workers”.

The Industrial Commission reviewed information in developing CPT code groupings and determined conversion factors based on average medical provider billings. Our first proposal resulted in a 13% decrease when compared to our current Medata fee schedule used in our Medical Fee Dispute Resolution Process. The National Council of Compensation Insurers (NCCI) completed a full analysis applying Medicare*s projected medical provider utilization standard. This resulted in a proposed 0.8% increase in the premium rate. However, since we did not adopt Idaho*s Geographic Practice Cost Indices (GPCIs), the rate increase would have been 3.3%.

The Industrial Commission submitted a Proposed Rule, on September 8, 2005. Public hearings were held in Boise, Twin Falls, Coeur d*Alene, Lewiston and Idaho Falls. A transcript of each hearing was entered as a part of the record. After reviewing the complete record, the Commission did not change the Proposed Rule to a Pending Rule due to the conflicting information received during the public comment period. On one hand we had Employers telling us that our proposed conversion factors would raise their costs and on the other hand the medical providers were saying their reimbursements would decrease and they may be forced to stop providing Workers*Compensation services. Leaving the Proposed Rule in place, the Commission adopted a Temporary Rule for legislative review.

ATTACHMENT #2

Page 1 of 2

Joint Meeting of Senate and House Commerce & Human Resources Committees
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TESTIMONY (con'd)

After our first meeting with the House Commerce & Human Resource Committee, the Idaho Medical Association met with several Surety representatives to begin working on establishing new conversion factors. At that time we were able to obtain 2005 raw data from the State Insurance Fund. Thanks to Alan Conilogue our Adjudication manager and in-house medical fee expert. Alan recently returned from serving our country in Iraq, he developed an excel program dividing reimbursements into CPT code groups showing actual paid data. New conversion factors could be allocated to CPT codes then totaled and compared to actual paid amounts.

In trying to follow legislative intent, we found that a 10% reduction in actual paid resulted in many conversion factors below Blue Shield reimbursement rates. The conversion factors we have placed into the new Temporary Rule are based on actual 2005 paid amounts. If every provider were to bill at the new established level, the result would be a 1.6% increase in medical provider reimbursements. NCCI has reviewed this new rule. By using National RVUs, they estimate a .7% decrease in premium rate.

This continues to be a work in progress. Last Friday I met with representatives from the Idaho Medical Association, Senators Andreason and Goedde, and Representatives Schaeffer and Garrett. The Idaho Medical Association is continuing to work on additional recommendations. They are looking at individual procedures within our current groups of CPT codes to find additional savings to be applied to procedures they feel need to be increased. I have assured the IMA that the Industrial Commission continues to be open to recommendations and have the ability to modify the current Temporary Rule prior to April 1.

The Commission was notified last Friday by Orthopaedic Associates; Drs. Dais, Hessing, Clawson, Meier, Doerr and Schweiger that they will no longer take new Workers* Compensation patients beginning April 1 if the Temporary Rule is not reversed. When we receive letters from Doctors, it would be helpful if we could access their actual paid information from the State Insurance Fund to compare with our Temporary Rule. However, we are unable to do so without a signed release.

This process has been difficult. We are trying to be fair to both Employers and Employees. We certainly do not want to limit medical treatment and at the same time we do not want to increase Workers* Compensation costs to employers. I look forward to continuing to work with the Idaho Medical Association in trying to resolve this issue.

ATTACHMENT #2

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MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 9, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai, Acting Senator Hatch substituted in absence of Chairman Andreason

MEMBERS ABSENT/ EXCUSED: Chairman Andreason

GUESTS: The sign-in sheets will be retained in the committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

CONVENED: **Vice Chairman Coiner** convened the meeting at 1:32 p.m.

H 647 **Related to State Employees, Problem Solving**

Representative Garrett introduced this bill to the Committee. The bill amends *Section 67-5315, Idaho Code*, to provide for an optional peer review within the problem solving process. It also provides for the use of an impartial mediator upon agreement by the agency and the employee. The peer review process will be an advisory process. **Representative Garrett** used an online survey completed by state employees with a 75% response rate. The results showed that state employees were not comfortable taking their concerns to management. The peer review process can break down the current barriers that produce low employee morale and lowers productivity levels. This bill will help to inspire fairness and objectivity and has the potential of being a "win-win" for both managers and employees.

Representative Pasley-Stuart, co-sponsor of this bill, stated that H 647 is committed to opening communication channels by providing a participating problem solving process which has proven to be extremely effective in both the private and public sectors. The intent of this bill is to encourage collaboration among all employee levels in creating opportunities for effective problem solving. The goal is to make the peer review process so appealing to employees that they will choose to use this option rather than using the more formal, time consuming, and expensive process that is currently in place. **Representative Pasley-Stuart** proceeded to explain the procedure used in the peer review process. She closed by asking for the Committee's support on this very important issue.

Senator Compton asked for the names of two companies in the private sector that used this process. **Representative Pasley-Stuart** said that Idaho Power was one. **Senator Compton** was concerned with a statement

that was made that managers will think twice about their decisions realizing that they may be subject to peer review groups. Managers have been trained to do their job, and “they should not have to look over their shoulders.” **Representative Pasley-Stuart** agreed with **Senator Compton** that it should be the case; however, it isn’t happening. **Senator Compton** was still concerned that there was not a complete case study on the complaints to show that, in actuality, the employee wasn’t deserving of whatever action the manager had taken.

Senator Goedde questioned why this would have to be put into statute if this was an optional program. **Representative Pasley-Stuart** responded, “so it will be used.” **Senator Goedde** then asked if there is currently anything that statutorily disallows this process from being used within any department. **Representative Pasley-Stuart** stated that it is her understanding that the problem solving process is in the statute. **Senator Goedde** asked if the problem solving process was mandatory. **Representative Pasley-Stuart** replied that, to her understanding, it is.

Senator Goedde questioned the fiscal impact, referring to statements that the establishment of this process would save money in the long run; however, it appears \$68,000 in additional funds would have to be expended. **Representative Pasley-Stuart** responded that within the Department of Human Resources (HR), there is a full-time position assigned to handle the problem solving process; and, this same person would handle the peer review process. At the same time, litigation costs would be reduced.

Senator Cameron asked who would have the option to initiate the peer review process – Human Resources, the department, or the employee. **Representative Pasley-Stuart** advised that it would be the option of the employee to request the peer review.

Senator Cameron confirmed his understanding that it would be required of the department to provide the peer review mechanism, if requested by the employee. **Representative Pasley-Stuart** answered yes, and the result would not be binding. **Senator Cameron** then asked whether, if there is no consequence resulting from the peer review, this process might make the rift between the supervisor and employee even wider than before. **Representative Pasley-Stuart** advised that a rift currently exists between the employees and managers in most departments; and this process would help considerably to narrow that rift, because the people involved will be trained in listening and problem solving.

Senator Goedde stated that he could not see how this process will help to solve the problem if the peer review is only advisory. That does not mean anything will change and there are no consequences. **Representative Pasley-Stuart** responded that although this is true, the employee will have had the opportunity to be heard; the employee has had “peers” review the original decision and possibly present a different viewpoint.

Senator Goedde asked whether the results of the peer review would have

any implications in a court case, or could be used as evidence if the situation were to escalate to that point. **Representative Pasley-Stuart** replied that to the best of her knowledge, no it would not.

Senator Werk directed a question to **Representative Garrett** and asked whether this is an optional peer review and, if an employee requested this, could management deny that request. **Representative Garrett** advised that she could not fully address this question until Rules could be developed; and those Rules would come back for legislative review. She went on to explain that mediation is used in many different situations. When they are talking about peer review, it is not just the employees that bring in their support person, but the supervisor has a peer as well. The questions the peers ask would relate to “how did this situation happen and how can we make it better.” This setting opens up dialogue and communication.

Senator Werk stated that peer review provides a venue to be heard which is not available at this time. He then directed a question to **Ms. Heilman**. He asked **Ms. Heilman** about her professional viewpoint in providing this type of program and whether or not it would be beneficial. **Ann Heilman**, Administrator, Idaho Department of Human Resources (HR), stated that the peer review process would be beneficial to the current system. Peer review offers a way for people to consider different opinions and get input from their peers.

Senator Werk asked again about a request for peer review being denied. **Ms. Heilman** referenced lines 8 and 9 of the bill that stated, “The rule shall provide for the use of an impartial mediator and/or peer review upon agreement between the agency and the employee.” The agency would be encouraged to move forward with this, but the agency would have to agree to “give this process a try.” If an agency declined to participate, **Ms. Heilman** did not think there could be a Rule established making authority to force them to do so.

Senator Stegner pointed out that **Ms. Heilman’s** statement was in opposition to **Representative Pasley-Stuart’s** statement. He asked for clarification of his understanding that there would not be a way to write a Rule that would require a manager to take advantage of the use of the peer review process. **Representative Palsey-Stuart** restated lines 8 & 9 on page 2 of the bill, and agreed that both the employee and the agency have to agree to mediation and/or peer review, and that neither one can be forced to participate.

Senator Compton wanted to know if it was not the role and responsibility of the Human Resources Department to provide advice and counsel to managers when they are in a conflict situation, and to make sure the manager is doing a good job. **Ms. Heilman** answered “yes”; however, the department sizes vary greatly within the state agency, and so does the corresponding level of professionalism in the HR staff available to that specific department.

Senator Compton made the point that there are professionals in place who

could look at these situations very strongly; and, based on labor laws or personnel rules and laws, take the manager aside and suggest that appropriate behavior is maintained at all times. **Ms. Heilman** said “yes and no”; this process could routinely occur in larger agencies, but in other cases, HR may not know about the conduct, and they would have to have some knowledge of the conduct in order to give the direction described. The smaller agencies do not have that kind of avenue open to them right now.

Senator Malepeai suggested that even if there was an HR department available to the agency, HR may be too close to the situation to be objective. **Ms. Heilman** agreed.

Senator Goedde provided a scenario where a manager was in the peer review, and his/her peer said, “yes, he/she had made an error in judgement.” Although these proceedings are not supposed to be used in court, could this open the door for an attorney to step in and use the process against us in court? **Ms. Heilman** responded that her understanding is that a Human Resources professional would facilitate the meeting, they would not record the contents of the meeting, nor would attorneys or employee representatives participate. The idea is that the “peers have a chance to come to decisions with one another and to some kind of conclusion.” It is almost like a group mediation, where the parties share their perspectives with the idea of coming to some resolution. There are no recordings. If an employee had continued with ongoing complaints and eventually ended up in court, it is possible that all of the people involved in the review could be subpoenaed.

Senator Broadsword said that this section of law specifically states that the Division of Human Resources shall adopt a rule and it goes on to add the peer review. She asked **Ms. Heilman** whether, as the Director of the Division of Human Resources, she could add peer review in that Rule without legislation. **Ms. Heilman** responded that it would be very difficult to accomplish this by Rule, the way the law is constructed.

Vicki Patterson spoke in favor of this bill on behalf of the Idaho Public Employees Association. She emphasized the fact that many managers are not trained to manage people; and, even if they are, instances arise that need to be resolved. Currently, employees have no place to go with their complaints. Most of the complaints are small, but escalate into something larger because there is not a process in place to handle the original complaint. Idaho State Police does have a similar process in place, and it works quite well. This is a very important piece of legislation and needs to be added to the personnel system.

MOTION: **Senator Compton** moved to hold H 647 in Committee subject to the call of the Chair. The motion was seconded by **Senator Stegner**.

SUBSTITUTE MOTION: **Senator Werk** made a substitute motion to send H 647 to the Senate floor with a **do pass** recommendation. The motion was seconded by **Senator Broadsword**.

Senator Stegner stated that the procedure set forth by **Ms. Heilman** sounded very fair, and he would not have a problem with a system of that structure. However, he still has concerns with the legislation and doubts the need for some of the new language; but his biggest concern is the ambivalence about whether this process is optional or not by the supervisor. That needs to be clearly understood before he could support the bill. Finally, in the language dealing with mediators, it talks about the employee's right to have a person of their choice available for each step of the procedure. If the language is going to be that specific, it should be spelled out in the manner of **Ms. Heilman's** view of how this will work; also, the supervisors should have the same described right. **Senator Stegner** said that the language of this bill is confusing; but if a bill was brought before this Committee in the future, designed as **Ms. Heilman** described, he would support it.

Senator Werk agreed that **Ms. Heilman** was very good at articulating the intent of this bill. Employees do not have a formal type of grievance process, and this process provides a way for them to be heard. An avenue for employee grievances was lost with the loss of the Personnel Commission. Employees have lost the ability to effectively deal with any problems they have within their departments or agencies, and this has led to many conflicts. This is currently not a good situation. **Senator Werk** does not have a problem with the language as it is written, because it allows for the process to happen, then the HR Department and other stakeholders can come up with a Rule. He is confident that HR will be able to develop a good process with the bill that is before the Committee today.

Vice Chairman Coiner commented that he saw a lot of the fears **Senator Stegner** had within rule. This just helps them get started to see what that rule is going to look like.

**ROLL CALL
VOTE:**

A **roll call vote** was taken on the **substitute motion** to send H 647 to the Senate floor with a do pass recommendation. With **four Ayes** (Senators Coiner, Broadsword, Werk, Malepeai) and **five Nays** (Senators Cameron, Stegner, Goedde, Compton, Hatch) **the motion failed**.

A **roll call vote** was taken on the **original motion** to hold H 647 in Committee to the call of the Chair. With **five Ayes** (Senators Cameron, Stegner, Goedde, Compton, Hatch) and **four Nays** (Senators Coiner, Broadsword, Werk, Malepeai) **the motion passed**.

H 649

Related to Workers Compensation, No Balance Billing

Representative Garrett presented H 649 before the Committee. This legislation is the result of a recommendation from the Advisory Committee for Industrial Workers Compensation. She introduced **Max Sheils**, Industrial Community Advisory Committee for Workers Compensation, to address the Committee regarding the intent of this legislation. **Mr. Sheils** explained that a problem arises when a Workers Compensation (WC) patient receives treatment from a medical provider and the bill is submitted to the self-insured employer or the surety for payment. The adjustments are made to the bill pursuant to the rules and regulations resulting in the amount paid to the medical provider being somewhat less than the bill. The medical

provider then bills the injured party for the balance and insists on payment, hence the term “balance billing.”

MOTION: **Senator Goedde** moved to send H 649 to the consent calendar. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

H 520 **Engineers, License, Exam Requirement**

David Curtis, PE, Board of Engineers & Land Surveyors, addressed the Committee regarding H 520. Under current law, the teaching of upper division, engineering design subjects is considered a “practice of engineering” and requires a license as a professional engineer. Also under current law, faculty members have three years after being hired in which to qualify for tenure and to satisfy the license requirement. This amendment would increase the time period from three to five years. This bill will also allow the requirement for passage of an exam on the fundamentals of engineering to be waived for some persons who have a doctorate degree obtained from a college or university which has an approved undergraduate degree in the same discipline. All four universities expressed support for these amendments.

MOTION: **Senator Malepeai** moved to send H 520 to the consent calendar. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

H 521 **Related to Survey Record, Filing**

Dave Curtis, PE, Board of Engineers & Land Surveyors, presented H 521 to the Committee. This legislation amends and adds to *Section 55-1904, Idaho Code*, the requirement that a Record of Survey will be filed when monuments are set at corners of a property where there had not previously been a monument to define the corner and boundary.

MOTION: **Senator Goedde** moved to send H 521 to the consent calendar. **Senator Malepeai** seconded the motion. The motion carried by **voice vote**.

H 433 **Related to Petroleum Clean Water Fund/Honorarium**

Hugh O’Riordan, Attorney for the Idaho Petroleum Clean Water Trust Fund Board, addressed the Committee. This Board manages the fund that is used for cleanup. The Board consists of seven (7) members and they meet four (4) times a year and receive a PERSI qualified payment of \$50 per meeting. Unfortunately, the stipend was filed under *Section 59-509(h), Idaho Code*, and disqualified the member’s Individual Retirement Accounts under federal tax laws. This bill is intended to reflect that the income received is an “honorarium” provided in *Section 59-509(n), Idaho Code*. All necessary tax forms will be filed to reflect this change retroactive to January 1, 2003.

MOTION: **Senator Werk** moved to send H 433 to the consent calendar. The motion was seconded by **Senator Broadsword**. The motion carried by **voice vote**.

H 645

Related to Liquefied Petroleum Gas Tank/Install

Roger Hales, Attorney for the Idaho Liquefied Petroleum Gas (LPG) Safety Board, brought this legislation before the Committee. This bill has two purposes: (1) It eliminates any confusion about the LPG Board's jurisdiction or the authority of licensed LPG dealers; and (2) clarifies requirements for licensing of certain types of facilities. The first purpose clarifies that the jurisdiction of the LPG Board is the setting of outdoor LPG storage tanks and the installation of outdoor LPG lines from the tank to the second stage regulator. The second part of this bill eliminates the requirement of a second license for a small LPG dispensing facility under 4,001 gallons. The additional licensing was an unintended result of the original legislation.

Senator Goedde asked **Mr. Hales** to describe the physical size of a 4,001 gallon propane tank. **Mr. Hales** responded "quite large." **Senator Goedde** asked why the size of 4,000 gallons was selected and the safety implications of a tank that large. **Gary Van Hees**, Chairman of the Idaho Liquefied Petroleum Gas Safety Board, stated that 4,000 gallons is a separating point in other definitions within Federal Protection Agency (FPA) code. As a practical matter, there is not a dispenser within the State likely to have over 2,000 gallons. Most of these dispenser tanks are 500 to 1,000 gallons.

Senator Stegner recalled that a semi-trailer hauls approximately 7,000 gallons. **Mr. Van Hees** said that was correct, or it could be a little more; and a 4,000 gallon tank would be about one-half that size.

Senator Broadsword asked for clarification that the small dispenser will now need one license and not two. The answer was "yes," that was correct. **Senator Werk** wanted to clarify that the installation provisions had nothing to do with the 4,000 gallon tank provision. **Mr. Hales** again answered "yes," they were two very different provisions in the code.

MOTION:

Senator Broadsword moved to send H 645 to the Senate floor with a **do pass** recommendation. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

H 538

Related to Landscape Architects, Licenses/Fees

Roger Hales appeared before the Committee on behalf of the Idaho Bureau of Occupational Licenses. This bill does three things: (1) Cleans up some examination language (an applicant will no longer need permission to take an exam but must pass the exam before qualifying for a license); (2) the Board will be allowed to charge a \$50.00 processing/administration fee to administer the national examination; and (3) the license fee cap will increase from \$125.00 to \$200.00. This is a small Board, and currently the expenses exceed income.

Senator Compton stated that there was a revision last year. **Mr. Hale** responded that he thought it was two years ago that they had a major piece of landscape architecture legislation that was a scope of practice issue. He couldn't recall another piece of legislation.

MOTION: **Senator Compton** moved to send H 538 to the Senate floor with a **do pass** recommendation. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

H 539 **Related to Architect, Technical Submissions**

Roger Hales appeared on behalf of the Idaho Bureau of Occupational Licenses. This bill modernizes certain terms and aspects of an architect's practice. The bill:

- Establishes requirements for supervision of unlicensed individuals.
- Maintains "responsible control" of the content of technical architectural submissions.
- Places conditions required when plans are stamped and sealed.
- Defines the use of the title "architect."
- Extends criminal violations.

Senator Stegner asked if changing the section regarding "responsible control" was a lessening of the statute. **Mr. Hales** answered that it was not. That term is currently used by the national registration form language. This is just modernizing the term by changing it from "immediate and responsible direction" to "responsible control." That term also has an effect on the architect's ability to hire employees. It also applies to the oversight of employees and when architectural plans are signed. **Senator Stegner** summarized by saying that this was neither a strengthening nor weakening of the law, but just modernizes it to cover today's working environment.

Senator Werk had a question regarding the legality of work done by out-of-state architects. In the context of an out-of-state architect sending letters, soliciting bids, and using the term "architect" but they are not licensed in this state, that would be illegal.

MOTION: **Senator Compton** moved to send H 539 to the Senate floor with a **do pass** recommendation. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

H 522 **Related to Reciprocal Insurers, Workers Compensation**

Woody Richards, representing the Workers Compensation (WC) Exchange, presented this bill to the Committee. **Mr. Richards** first explained what a reciprocal insurance company is and does. A reciprocal insurance company must, in most cases, abide by the same rules that other insurance companies must follow. However, there are three sections of code that apply only to a reciprocal insurance company with seven or fewer subscribers.

This bill is a result of the restructuring of Potlatch Corporation from a "C" Corporation to a Real Estate Investment Trust. Potlatch is a member of the Workers Compensation Exchange. Company restructuring is becoming more of a common occurrence and instead of waiting for the insurance companies to change the rules, this bill gives the Exchange a head start. This amendment provides that a subscriber that is a corporation, limited liability company, or other legal entity shall be considered as one subscriber, regardless of the number of its wholly-owned subsidiaries. The Department of Insurance has no objection to this definition.

Senator Goedde asked if this would clarify how a shortfall would be allocated to members. **Mr. Richards** said "no," it would not. The members

insure each other until everything is satisfied. A subscriber is treated as one entity, no matter how many subsidiaries it has.

Senator Goedde asked if the reason for defining a subscriber that way is to stay under the seven member cap. **Mr. Richards** responded "yes," that is correct.

MOTION: **Senator Goedde** moved to send H 522 to the consent calendar. The motion was seconded by **Senator Malepeai**. The motion carried by **voice vote**.

MINUTES: **Senator Broadsword** moved to accept the February 16, 2006 minutes as written. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

Senator Stegner moved to accept the February 21, 2006 minutes as written. **Senator Compton** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: **Vice Chairman Coiner** adjourned the meeting at 2:54 p.m.

Senator John Andreason
Chairman

Olga Coply
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 14, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: None

CONVENED: The meeting was called to order by **Chairman Andreason** at 1:32 p.m.

GUESTS: The sign-in sheets will be retained in the Committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

MINUTES: **Senator Cameron** moved to accept the Minutes of February 23, 2006 as written. **Senator Broadsword** seconded the motion. The motion carried by **voice vote**.

Chairman Andreason advised that at the request of **Representative Bob Nonini**, sponsor for H 653, this bill would be moved to the last item to be presented before the Committee.

H 652 Insurance Company, Goodwill/Trade Name

Mr. John Mackey addressed the Committee on behalf of the United Heritage Financial Group. A copy of **Mr. Mackey's** testimony on behalf of H 652 is included in these minutes as **Attachment #1**.

This legislation would amend *Section 41-603, Idaho Code*, to allow Idaho domestic insurance companies to treat Goodwill, Trade Names, and other similar intangible assets as admitted assets. The current statute creates a major obstacle for Idaho insurance companies that acquire or merge with other insurance companies, because it does not allow this. The Idaho Department of Insurance is aware of this legislation. There is no known opposition to this bill, and there is no negative fiscal impact.

Senator Werk asked why Goodwill was left out of the original statute when the code was enacted. **Mr. Mackey** referred to **Mr. Jack Wendrel**, Chief Operating Officer for Heritage Financial Group, to respond.

Mr. Wendrel stated that the original legislation was drafted in 1961. Since that time, the accounting concept of Goodwill has changed significantly due to a number of acquisitions that have taken place and changes in accounting concepts and the value of assets contained within the financial statements. The current statute is contrary to uniform

accounting practices for insurance companies as adopted by the National Association of Insurance Commissioners. **Mr. Wendrel** advised that to the best of his knowledge, when the original legislation was drafted they were looking strictly at a "liquidation perspective" and were not certain whether Goodwill actually had any liquidation value.

MOTION: **Senator Werk** made the motion, and **Senator Broadsword** seconded, to send H 652 to the Senate floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 722 **Insurance Policyholder, Inducements**

Mr. John Mackey addressed the Committee on behalf of the United Heritage Financial Group. A copy of **Mr. Mackey's** testimony on behalf of H 722 is included in these minutes as **Attachment #2**.

This legislation would amend *Section 41-1314, Idaho Code*, to allow life, property and casualty insurers that are licensed in Idaho, and insurance producers licensed in Idaho to market these products, to give gifts having an aggregate value of \$50 or less to a policyholder or a prospective policyholder, if they so choose. It has been, and is common practice in the industry to give calendars, pens, cups and other such items of value to policyholders and prospective policyholders. This bill will bring the code in line with industry practice and legitimize this practice.

Discussion followed regarding the types of gifts that would be provided, and whether the "aggregate value" would apply to each incident of gift giving only. **Mr. Mackey** confirmed that the \$50 limit would apply to each incident of gift giving. While it is possible that multiple gifts could be given by a particular company or producer to an individual client, the profit margins for the products are quite low and would discourage this type of activity.

Senator Goedde addressed a question to **Mr. Shad Priest**, Deputy Director of the Division of Insurance. **Senator Goedde** asked **Mr. Priest** to express his department's position on this bill in relation to the "anti-rebating" statute currently in code.

Mr. Priest advised that under current law, the Division of Insurance has taken the position that the "mugs, frisbees, or whatever else--calendars or pens that are handed out--that's okay as long as it is marketing." Nor is there a problem with taking a prospective client to dinner. The problem arises under existing law, which is very broadly worded, "that if you offer something of value to *induce* them to purchase the policy, or say that 'If you buy this policy, I will take you golfing,' then you are kind of crossing the line." **Mr. Priest** stated that it is his understanding that H 722 was trying to address this area only.

Mr. Priest added that his department had researched this area upon receiving this proposed legislation. They found that states are "very mixed" regarding this issue; some have an outright ban against this activity, while others have eliminated the rebate law altogether. The initial reasoning behind an anti-rebate law, he believes, was to partly protect the agents from getting into a competition of spending their commissions on

gifts. Therefore, his department has not taken a position on H 722, as they feel it is a policy issue. While this “may be part of the rebate statute,” Mr. Priest stated that the anti-rebate statute would continue to remain in effect for gifts exceeding the \$50 limit.

MOTION: **Senator Compton** made the motion, and **Senator Broadsword** seconded, to send H 722 to the Senate floor with a **do pass** recommendation. The motion carried by **voice vote**.

S 1421 **Judgements, Money Due, Interest**

Chairman Andreason informed the Committee that S 1421 had been removed from the agenda at the request of the Sponsor, **Senator Davis**, for presentation to the Committee on Tuesday, March 21, 2006.

H 653 **Motor Vehicle Dealer/Manufacturer, Liability Insurance**

Mr. Bill Roden addressed the Committee on behalf of the Idaho State Independent Automobile Dealers Association. This legislation provides that a dealer or vehicle manufacturer, as a condition of licensure by the Idaho Department of Transportation, must maintain insurance against liability for loss resulting from bodily injury, death, or property damage arising out of the ownership, maintenance or use of the vehicles owned by, or under the control of, the licensee and used in the conduct of the licensee’s business. This bill would not create any additional liability on the part of the licensee, and it is required in the same minimum amount as required for other vehicle owners pursuant to Idaho’s financial liability law. There will be no fiscal impact on state or local funds, and there is no opposition to this legislation.

Mr. Roden advised that this would only apply to vehicle dealers or manufacturers licensed and operating in the State of Idaho. “Vehicle” is described within the *Idaho Vehicle Code* to include recreational vehicles, trailers and boats in addition to automobiles. Companies such as Ford or General Motors would not be included, unless they actually manufactured the vehicles in the State of Idaho.

Mr. Roden answered questions from the Committee regarding current insurance requirements, insurance limits, and primary coverage responsibility. **Senator Compton** asked **Mr. Roden** to explain what had promulgated this legislation. **Mr. Rex Green**, Training Specialist for the Idaho Automobile Dealers Association, addressed the Committee in response. He stated that a citizen had been involved in an accident while test driving a vehicle from a local dealership. The citizen discovered that the dealership did not have any insurance and contacted the Association.

Mr. Roden stated that this bill would simply impose the same standards of liability insurance responsibility for the dealers and manufacturers that are already placed upon individuals. The amount of coverage that must be provided is the same as required for other vehicle owners pursuant to Idaho’s financial responsibility law. **Mr. Roden** advised it was not their intent to establish a “deep pockets” situation, and most, if not all, of these businesses would have additional insurance policies, bonds or sureties in place with coverage limits sufficient to their level of business.

MOTION: **Senator Goedde** made the motion, and **Senator Cameron** seconded, to send H 652 to the Senate floor with a **do pass** recommendation. The motion carried by **voice vote**.

ADJOURNMENT: The meeting was adjourned at 2:04 p.m. by **Chairman Andreason**.

Senator John Andreason
Chairman

Olga Copley
Secretary

TESTIMONY

Mr. John Mackey – House Bill 652

Mr. Chairman, Committee members, my name is John Mackey, and I am here on behalf of United Heritage Financial Group to request your approval of HB652.

HB652 would amend Section 41-603 to allow Idaho Domestic Insurance Companies to treat Goodwill, Trade Names and other like Intangible Assets as admitted assets.

The current statute creates a major obstacle for Idaho insurance companies that seek to acquire or merge with other insurance companies. In many acquisitions, there is an inherent value in the acquired company, i.e. goodwill. Upon the acquisition of goodwill of another insurance company, an Idaho domestic insurer must make a direct reduction in capital and surplus, because 41-603 does not allow goodwill trade names and other like intangible assets to be treated as admitted assets.

The current statute is contrary to uniform accounting practices for Insurance Companies as adopted by the National Association of Insurance Commissioners; HB652 will amend 41-603 to be consistent with the NAIC uniform accounting practices and remove Idaho from the short list of six states that expressly disallow Goodwill as an admitted asset.

HB652 amends 41-603 with the addition of “except as expressly permitted and as prescribed by the national association of insurance commissioner*s accounting practices and procedures.” on lines 14,15 and 16.

When enacted, HB652 would eliminate a major obstacle for Idaho Insurance Companies who are seeking to grow their business by acquisition or merger with other insurance companies, bringing new business and additional job opportunities to the state

The Idaho Department of Insurance is aware of this proposed legislation. To the best of my knowledge, there is no opposition to it. There is no negative fiscal impact to the state.

I stand for questions.

ATTACHMENT #1

Senate Commerce & Human Resources Committee

March 14, 2006 – Minutes

TESTIMONY

Mr. John Mackey – House Bill 722

Mr. Chairman, members of the Committee, my name is John Mackey and I am here on behalf of United Heritage Financial Group to request your approval of HB722.

HB722 would amend Section 41-1314, Idaho Code, to allow Idaho-licensed Life insurers, Property and Casualty insurers and Idaho-licensed insurance producers marketing these products to give gifts having an aggregate value of fifty dollars or less to a policyholder or prospective policyholder if they so choose.

Section 41-1314 currently prohibits the gift of anything of value to a policyholder or prospective policyholder from an Idaho-licensed Insurer or insurance producer unless such item is expressly specified in the policy.

It has been and is common practice in the industry to give calendars, pens and other such items of value to policyholders and prospective policyholders. HB722 would simply bring the code in line with industry practice and legitimize the gifting of such items of value to policyholders and prospective policyholders* of Life, Property and or Casualty Insurers that do not exceed an aggregate value of \$50 per occasion.

HB722 will amend 41-1314 with a few technical corrections and with the addition of paragraph 3 lines 40-43 on page one and lines one and two on page 2. "Nothing in this section shall be construed etc."

The Dept. of Insurance is aware of this proposed legislation.

There is no fiscal impact to the State.

ATTACHMENT #2

**Senate Commerce & Human Resources Committee
March 14, 2006 – Minutes**

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 16, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: Senator Stegner

CONVENED: The meeting was called to order by **Chairman Andreason** at 1:33 p.m.

GUESTS: The sign-in sheets will be retained in the Committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

HCR 55 **Building Safety Division, Rules Rejected**

Representative Gary Collins presented this concurrent resolution to reject a pending rule of the Division of Building Safety governing electrical specialty licensing. The rule docket was rejected by both the House and Senate Commerce & Human Resources Committees during legislative rules review, and the adoption of this resolution by both houses will prevent the rule from going into effect.

MOTION: **Senator Werk** moved to send HCR 55 to the Senate Floor with a do pass recommendation. **Senator Compton** seconded the motion. The motion carried by **voice vote**.

H 723 **Haircutter, Requirements, Permits**

Representative Elaine Smith addressed the Committee regarding this legislation. This bill will amend *Section 54-802, Idaho Code*, to define "haircutting" and "haircutter" and sets forth requirements for a haircutter license. It also amends *Section 54-808, Idaho Code*, to set forth curriculum and training requirements for haircutting; *Section 54-818, Idaho Code*, to provide fees for haircutter permits and examinations; and amends *Chapter 8, Title 54, Idaho Code*, to provide sanitation standards and to require minimum hours of instruction for student cosmetologists rendering chemical services. This legislation pertains only to schools of cosmetology; barber schools and other disciplines are regulated by separate statutes.

Senator Compton inquired about sanitation requirements and the penalties for failing to disinfect instruments. **Representative Smith** introduced **Millie Herbold**, President of the Idaho Cosmetology Association, to address this issue. **Ms. Herbold** responded that there are

penalties for failure to meet the sanitation requirements. She stated that a complaint would be filed with the Board of Cosmetology. The Board then conducts an investigation and, if the complaint is found to be valid, penalties can be assessed. A fine of \$250 would apply to the first violation, and this amount would increase for subsequent violations.

Senator Broadsword asked whether the term “haircutter” would include the operation of electric clippers and, further, whether this legislation would infringe upon any other element of the personal care business.

Ms. Herbold advised that “haircutters” would be trained in the use of electric clippers in the same manner as fully-licensed cosmetologists. Barbers are regulated by separate rules and statutes, and this legislation would not apply to barbers.

MOTION: **Senator Goedde** moved to send H 723 to the Senate floor with a do pass recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

H 647 **State Employees, Problem Solving**

Chairman Andreason introduced **Representative Kathy Garrett** to address the Committee to answer questions and provide additional information regarding this legislation. **Senator Compton** inquired as to why this bill was being brought back to the Committee, as it was previously presented and voted on by the Committee at the March 9, 2006 meeting.

MOTION: **Senator Compton** made the motion that the Committee go at ease regarding H 647 until all of the members of the Committee could be present to hear the matter. **Senator Goedde** seconded the motion.

DISCUSSION: **Chairman Andreason** advised that it was his understanding that considerable confusion surrounded this bill when previously presented before the Committee; and, although he did not intend to take any further action on this legislation during this session, he felt it was important to publicly clarify the intent and purpose of H 647.

Chairman Andreason stated that it has always been very clear to him that the “peer review” is a voluntary process; however, he was told that the reason the bill was not approved in Committee was because some of the members thought that the legislation would require mandatory “peer review” for the employer.

Senator Compton stated that he could not speak for all nine members of the Committee; however, he personally does not like “any part of the bill” because “it puts a third party in the form of doing something that good management should do” and “doing something that Human Resources should do, and that is training managers to manage employees in a judicial way and also the right of members within that department to escalate the review of any issues.” In his opinion, “it is not necessary if you have efficient management” to bring a third party into any issue. He believes that this legislation is “outside of good management practice.”

Senator Werk stated his impression that there was a substantial amount

of confusion about the intent and purpose of this legislation. He felt there was confusion regarding whether or not the peer review process would be mandatory, whether or not the language was necessary, and whether or not the specific procedures would occur through rulemaking, which would come back before the Committee for approval. **Senator Werk** advised that from his perspective, he would certainly entertain another hearing and another vote on this legislation. There are many questions, and this is an important issue deserving of reconsideration.

Senator Broadsword stated that there appears to be a difference of opinion among the Committee members. Her personal feeling is that including the peer review process in statute “would just add another tool to the toolbox and would not necessarily need to be used unless all parties agreed.” Not every agency may have managers with ideal skills for dealing with employees; and, sometimes, a lower-level discussion with peers can head-off future litigation and resolve problems. She also is not opposed to reconsideration of this bill.

Chairman Andreason advised that he was employed as a manager with the State of Idaho when the Personnel Commission was in existence and the peer review process was being used with a great deal of success. He cannot understand why the process would now be viewed as a problem.

Senator Cameron addressed some of his issues and concerns with H 647. He does not have a problem with a properly drafted peer review concept. However, this legislation is not an Interim Committee bill, and he heard mixed messages from those who testified before the Committee as to whether this would be a mandated or optional process. He feels that this would also be confusing to the employees, and whether they do or do not have a right to the peer review process. Also, if an employee were to request the peer review and the employer deny this process, then that would, in turn, help to escalate the bad feelings of the employee. Additionally, he feels that the “third party” should be better defined and should not include attorneys or union representatives. He feels that more thought should go into this legislation, and the legislation should be brought back for consideration next year. **Senator Cameron** stated, “It is an important enough process that we ought to do it right.” He feels that the current bill “may only throw kerosene on the fire.”

Chairman Andreason commented that when the peer review process was used previously, “we didn’t bring in attorneys, we didn’t bring in unions, we brought in a reputable staff person from another agency; and it was only done when the supervisor and the employee agreed to that, and the decision made wasn’t cast in stone.” The peer review was “just to help the process along” and if that did not solve the problem, then “it was taken to the next level.”

Senator Broadsword asked for clarification of **Senator Cameron’s** statement, citing page 2, lines 10-13, of the bill which states, in current code, “The employee shall be entitled to be represented by a person of the employee’s own choosing at each step of the procedures, except the initial informal discussion with the immediate supervisor prior to filing under the problem solving procedure.” **Senator Broadsword** reaffirmed

that this is already in current code.

Senator Cameron stated that “if the third party is defined as the Chairman stated” then he would have no problem with that; however, “if the third party is defined as a union representative or an attorney, then that is throwing kerosene on the fire.” He feels that the entire issue needs more thought prior to proceeding with legislation. He also remembered when the peer review process was in place, and he stated, “the reason it got eliminated was because it was more problems and hassles” and he feels that we need to ensure that this process will be of help to the employee and not a further hindrance.

Chairman Andreason said, “The primary purpose of the Personnel Commission was to keep attorneys out of the mix.”

Senator Coiner addressed the Committee and noted “It is kind of interesting to me that we are seeing all of these skeletons in the closet. As I read this bill, it very simply says that we can have an ‘optional peer review of the problem solving, which may include review by persons not connected with the particular department. The peer review process shall be advisory in nature.’ It will take rule making – all of these skeletons that everybody is talking about will be dealt with in rule making – and all this does is give them the option of having peer review, if it’s agreed to by both parties.” The Committee would review any pending rules and would have the opportunity, at that time, to identify “any skeletons” and deal with them accordingly.

Senator Compton stated that this bill deals only with symptoms and does not address the problem. He could support legislation that would clearly state that managers would be trained, and held responsible, to do their jobs. He requested that the Committee act upon the motion on the floor.

Discussion continued regarding the purpose of the legislation. **Senator Malepeai** stated that he appreciated all of the comments from the Committee members and their thoughts regarding the peer review process. With regard to **Senator Compton’s** comments, **Senator Malepeai** agreed that within a relatively small institution or in a larger, well-managed organization, managers would be appropriately trained in how to deal effectively with their staff. However, the government of the State of Idaho is a very large institution with a large number of workers. It is not possible to control every manager’s behavior, regardless of the training provided. It has been his experience that the process of third-party review has always resulted in settlement prior to litigation. It has always been a cooperative effort on the part of the manager and the employee, for the simple reason that if problems are not handled before escalating to the point of litigation, morale is lost. So it is best that the manager, a third-party, and the employee affected come to a resolution through compromise. This is a process by which no one loses and everybody wins.

Senator Compton rebutted that in his experience with IBM, the largest corporation in America, all managers – from the lowest level to the Chairman of the Board – received training in how to resolve employee

problems. If it becomes a part of the organization's philosophy, with a good Human Resources Department, all managers can be trained if it is the will of the company.

Senator Goedde asked a "process question." He said it was his understanding that when a motion was passed to "hold a bill in Committee" that someone on the prevailing side would have to make a motion for reconsideration. **Chairman Andreason** stated that this is correct.

Chairman Andreason then recognized **Representative Kathie Garrett** to address the Committee regarding H 647.

Representative Garrett advised that she was not present to change any minds or votes, but was addressing the Committee at the request of the Chairman and because there were questions as to why this legislation was initiated. She stated that the House Committee Chairman, **Representative Shaefer**, had asked her to prepare legislation to follow-up on issues resulting from the re-writing of personnel rules two or three years ago. There were several unresolved issues, but the rule was passed anyway with the intention to revisit those issues later. The Interim Committee that met this past year was only looking at employee compensation and did not address the problem solving issue. That is why **Representative Schaefer** asked her to look into this process.

Representative Garrett stated that what she discovered was that in many agencies, the problem solving process resulted in the lone employee facing five agency managers, plus their Deputy Attorney General. That made her concerned that there was not any informal process to deal with low-level grievances prior to the involvement of attorneys.

Her only personal experience with peer review was in the hospital setting, where the physicians come together in confidentiality when there is a bad outcome to determine the cause and possible ways to improve these outcomes in the future. There was considerable concern expressed that H 647 did not provide "a box around what peer review would look like."

Ms. Garrett advised that she purposely did not attempt to create a box – or other structure – around peer review, as the more she looked into the variety of peer review processes the more nuances she discovered. She then asked **Representative Ann Pasley-Stuart**, a personnel consultant, to assist her in this effort. They decided to let the "experts" take a look at the different peer review processes to determine what would constitute the "best practices" currently used for this process, and what would work best for the State of Idaho. There were also questions regarding attorneys and confidentiality of the peer review process. Usually, when peer review is used the participants sign a confidentiality agreement. Other questions regarding whether the process would have to be agreed upon by both the agency and employee, and whether the employee would be entitled to representation of a person of the employee's own choosing, are currently in statute. **Ms. Garrett** advised that all of this is stated clearly "every step of the way," and she feels that this is a process that would really benefit both the employees and employers. She agreed that

better training is needed, but a part of this process identifies an individual within the Human Resources Department to coordinate and train for the peer review process. Under the Personnel Commission, there was a full-time position dedicated to this job; that is why the provision was written into this legislation.

Ms. Garrett concluded by apologizing to the Committee for any confusion arising from the previous presentation of this bill, and she appreciated the opportunity to appear now and clarify the motive and intent of this legislation, explain the reason why it was not presented in a tightly structured application, and why she feels it is so important to the good management of state employees. This is a process currently used by the Idaho State Police with much success.

Senator Cameron posed several questions to **Ms. Garrett** representing various scenarios of the peer review process. He stated that he has a great deal of admiration and respect for **Ms. Garrett** and hoped that his comments did not appear to challenge her motives in bringing this legislation to the Committee.

Senator Cameron questioned whether this issue was ever brought up in the Interim Committee, and if a decision had been made to “table” this issue by the Interim Committee. **Ms. Garrett** said that she could not provide an answer, as she was not a member of the Interim Committee. It was her understanding that the issue of peer review was not addressed at all by the Interim Committee, and she has no knowledge of any action to “table” this issue by the Interim Committee members.

Senator Cameron then asked for clarification regarding whether the peer review process would be mandatory, as conflicting testimony had been presented at the March 9, 2006 meeting regarding this. On page 2, lines 5-7 of the bill, the existing language states, “...the rule shall provide that the employee receive notice and an opportunity to be heard before the department decides in favor of disciplinary action.” He asked **Ms. Garrett** to explain her understanding of this and the meaning of the word “shall,” and if this is a requirement that the department hear the peer review.

Ms. Garrett stated that, in her opinion, she reads this language as relating to disciplinary action, and that the process has gotten to the point of disciplinary action at that point. However, she advised that she did not have the rules before her, which might give more insight into the process. She still believes, however, that the provision for optional peer review is very clear, as well as the fact that the peer review is advisory in nature. She cited page 2, line 9 of the bill and the statement that “...upon agreement between the agency and the employee.” Therefore, she believes that the word “shall” is referring to “disciplinary action.”

Chairman Andreason noted that page 2, lines 6-13 is statutory language. **Senator Cameron** stated that perhaps one of the problems with this legislation is that “we are weaving this peer review language in amongst already kind of ‘due process’ statutory provisions; whereas if it were a separate section in code, it might be a little more clear as to the fact that it is optional.”

Senator Cameron continued with his questions, again stating his respect for **Ms. Garrett** and her integrity and honesty. He asked her to “put yourself in the shoes of an employee” that felt they had been wrongfully handled (i.e., they did not receive the raise they thought they deserved, or they did not receive the assignment they felt they deserved, or they were not treated in the manner they felt appropriate) and their request for peer review had been declined by the department. He asked, “What would be your feelings then?”

Representative Garrett advised that “not getting a pay raise” is one of the issues that cannot be brought into the peer review process. However, it is her belief that in the agencies that adopt a peer review process, their supervisors would be willing to be a part of that process. She believes that it is more of an agency decision whether or not to adopt the process of peer review. There may be occasions where the agency might feel the complaint is frivolous and “does not rise to the level” to go through this process, and then the employee would be denied. But this process, now, is denied to employees and the only way to go forward is through a very formal grievance procedure where the employee is required to “show up with nobody, necessarily, on your side.” She believes that once the agency has agreed to adopt this as one of their means of communication and problem solving, then the employees and supervisors will do this.

Senator Cameron asked for one last question, stating that he disagreed with **Ms. Garrett’s** assessment that employees who might be denied peer review would not be further disgruntled. He asked **Ms. Garrett** to “put the other hat on now, and assume you’re the supervisor.” You have mis-stepped and you know that you have done something wrong; would you then be willing to have a peer review where you would be identified as not dealing with the issue properly?

Representative Garrett responded that she had worked 21 years in a state personnel system in state hospitals, “where it was easy to be supervisor and make somebody mad.” Frequently, these type of situations would arise “and frequently we would have to sit down and talk.” But the process allowed them to make the work situation better. And, when she “was a supervisor of supervisors,” she then began to try and train her supervisors “to understand that it is alright to be criticized; you sit down, and you work through the process, and then you have a better work situation.” So, from her perspective, the peer review process is the best way to handle things and both sides can learn from the process. That is part of the training of the peer review process, as well as listening, mediation, and negotiating skills. This leads to a better working environment and better job satisfaction for all parties.

Senator Cameron requested one last follow-up question, asking whether **Representative Garrett** believed that H 647 would help that occur within state agencies, and that it is not occurring today. **Ms. Garrett** stated that she would not have brought this legislation forward if she did not strongly believe that it is needed and that it would benefit both the employees and employers.

Chairman Andreason advised that, when the peer review process was

previously in effect, he was aware of many situations where a manager talked to the employee and then told the supervisor that they should go through a peer review with the employee, based upon what some of the other options might have been.

Senator Compton asked for a vote on his motion. **Senator Cameron** commented on **Senator Goedde's** procedural point regarding reconsideration of a matter previously voted by the Committee.

Discussion followed regarding the specific action taken on H 647 at the March 9, 2006 meeting and the wording of the motion which was passed. **Senator Coiner**, Vice-Chairman of the Committee who presided over the meeting on March 9, 2006, in **Senator Andreason's** absence, confirmed that the previous motion "was to hold the bill in Committee to the call of the Chair." Therefore, from **Senator Coiner's** perspective, the Chairman has the option, which he had exercised, to bring the matter back before the Committee.

Senator Werk suggested that due to the confusion surrounding this issue that procedures be clarified with Carl Bianchi of Legislative Services. **Senator Compton** stated that since his motion was specifically related to whether or not the Chairman intended to present H 647 to the Committee for a second vote, if there is not to be a vote today, then his motion is withdrawn.

ADJOURNMENT: The meeting was adjourned at 2:25 p.m. by **Chairman Andreason**.

Senator John Andreason
Chairman

Olga Copley
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 23, 2006

TIME: 1:30 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: Senators Cameron, Stegner

CONVENED: The meeting was called to order by **Chairman Andreason** at 1:31 p.m.

GUESTS: The sign-in sheets will be retained in the Committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

MINUTES: **Senator Werk** moved to accept the Minutes of February 28, 2006 as written. **Senator Coiner** seconded the motion. The motion carried by **voice vote**.

H 784 **Title Loan Act**

Representative Max Black addressed the Committee regarding this legislation. **Mr. Black** advised that H 784 was drafted to establish guidelines and controls for the title loan business. He introduced **Mr. Steve Thomas**, who worked with the Department of Finance, some law firms, and the title loan industry in the development of this legislation.

Mr. Thomas and his partner, **David Jensen**, addressed the Committee on behalf of Community Loans of America, a business which is based in Atlanta, Georgia but is doing business in Idaho as Idaho Title Loans. They were asked in the fall of 2005 to work with the Department of Finance and members of the industry to develop some law in this area. After meeting in September, 2005, they used model legislation from the American Legislative Exchange Council (ALEC) and tailored this to meet the needs of the State of Idaho and made sure that portions of Idaho law were incorporated by reference. Several follow-up meetings were then held to complete this bill, which articulates consumer protection standards and raises the bar on the entire industry. This bill provides definitions and twelve consumer protections. **Mr. Thomas'** testimony is included in these Minutes as **Attachment #1**.

Discussion followed regarding the length of notice for loan default (ten days), the provision allowing the consumer to cancel the loan within 24 hours (or the close of the next business day), and the limiting of the lenders recourse to the amount of the vehicle only.

Noting that the only collateral for the loan is the vehicle, **Senator Goedde** asked what would happen if the borrower had an accident and the vehicle was totaled. **Chairman Andreason** asked if there was a requirement for the borrower to carry liability insurance. **Mr. Jensen** advised that the requirement for insurance would be up to the lender; however, the lender would be listed as a "loss payee" on the borrower's insurance policy. If they did not have insurance, the lender could not pursue the individual debtor directly to recover the loan.

Senator Goedde asked why bonding of the lender was not included in this legislation. **Mr. Thomas** responded that the issue of bonding did come up during the meetings, and the decision was made to use the ALEC model legislation, which does not include any provision for bonding of the lender. The suggestion for bonding of title loan lenders came from Stateline Title Company, as one of five items they presented to be included in the legislation. **Mr. Thomas** stated that four of those five items were included in H 784, but bonding was not included as the suggested amounts of \$100,000 (for first office) and \$50,000 (for additional offices) were considered to be excessive and would create a barrier for others to enter this market. The requirement for bonding was not favored by the Department of Finance for this very reason as well.

Senator Coiner asked why there were no references in the bill regarding interest rates for the loans or interest procedures. **Mr. Thomas** advised that sometime in the 1980's usury law was repealed in Idaho for all loans. This remains the law today, and this bill does not attempt to regulate interest rates but defers to the marketplace. Also, if Idaho were to prohibit title loans altogether, these kinds of loans would still be widely available from other businesses located in other states and on the internet. Ultimately, the policy decision of the State of Idaho has been to defer to the marketplace with regard to loan interest rates.

Senator Coiner remembered previous legislation that pertained to capitation of interest rates, and he asked **Mr. Gavin Gee**, Director of the Department of Finance, to address this. **Mr. Gee** advised that the general rule, since 1983 when the legislature repealed usury rates in Idaho, is to allow the marketplace to determine rates of interest. He recalled the 1970's and early 1980's when interest rates were very volatile and "the legislature could never keep up with the market rates of interest." This led to a lack of competition among financial lenders. **Mr. Gee** stated that the payday loan bill that was passed three years ago did not include a usury cap, although it was discussed at some length. As these types of loans are widely available on the internet and in other states, and since state interest rates can be pre-empted by the federal government, it has been the policy of the Department of Insurance to defer to the marketplace.

Senator Werk asked for clarification of *Section 280-46-506(3)* and the requirement for debtors to make a payment of at least 10% of the principal amount of the original title loan in addition to any finance charges, although it allows for deferral of payment. **Mr. Thomas** deferred to **David Jensen** to address this issue. **Mr. Jensen** directed the Committee to the last sentence in paragraph (3) which states that no further finance charges may accrue on any such principal amount

deferred. The rationale in providing this provision is to give the lender flexibility in making payment arrangements in lieu of vehicle seizure, while also helping the debtor to repay the balance of the loan.

Vicki Patterson addressed the Committee on behalf of Stateline Title Loans in Post Falls, Idaho, to support H 784. Ms. Patterson stated that while this initial legislation was a positive step forward, it falls short of providing adequate protections to consumers by failing to include a bonding requirement for the lender. **Ms. Patterson** discussed specific incidents in which a bonding requirement would have provided an appropriate recourse to help protect consumers from excessive financial loss resulting from their default on a title loan.

Discussion followed regarding bonding, with questions posed by **Senator Goedde**. **Mr. Ken McClure**, representing Northwest Title Loans, advised that bonding was a part of the discussion as H 784 was drafted. Bonding is important where an individual is in business, and the business is going to “do something” for the consumer (i.e., a concrete contractor goes bankrupt in the midst of pouring a driveway, so his bonding company would pay a replacement contractor to come finish the job). Rather, in the title loan context, if the lender violates the bill, then the loan is voided and the borrower would keep the money and the vehicle. At this time, there would be no benefit to establishing a bond requirement.

Senator Werk directed an inquiry to **Mr. Gee**, asking if he agreed that H 784 “is a pretty small step in terms of overall consumer protections.” **Mr. Gee** stated that he would “characterize this as a big step.” He agreed with **Mr. Thomas’** description of the “dozen or so consumer protections that are significant.” **Mr. Gee** continued, “The most significant one, in our opinion, is that pay down of principal – that will save consumers thousands and thousands and thousands of dollars on title loans, because it puts an end to the debt cycle.”

Mr. Gee confirmed that the Department of Finance feels that H 784 is very significant in providing consumer protections and disclosure requirements. Although it may be possible “to do more,” he feels that this is a “very big step in the right direction” and really does add a number of important provisions. Discussion followed regarding licensing requirements, and the continued authority of the Department of Finance to investigate complaints and enforce license requirements under the Idaho Credit Code.

MOTION: **Senator Goedde** made the motion, and **Senator Werk** seconded, to send H 784 to the Senate floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 655 Insurance/Employer Carrier/Discontinue

Ms. Lyn Darrington addressed the Committee on behalf of Regence BlueShield of Idaho, a domestic health insurance company. A copy of **Ms. Darrington’s** testimony is included in these Minutes as **Attachment #2**. This legislation will allow carriers to discontinue obsolete health insurance products while continuing to guarantee coverage to members through new and existing product lines, thereby enabling health

insurers to better respond to market needs. Similar legislation has been enacted in 44 other states. This bill is presented to the Committee with amendments that are a product of a consensus agreement between Regence BlueShield of Idaho and Blue Cross of Idaho. These amendments also address concerns expressed by others regarding the language of H 655, and a meeting with the Department of Insurance confirmed that the Department is comfortable with the proposed changes. There is no known opposition to this legislation.

Discussion followed regarding existing code language and the three primary components of this legislation: (1) A 90-day notification to members of discontinuance; (2) guaranteed renewability as protected by the federal Health Insurance Portability and Accountability Act (HIPAA); and (3) the requirement that the health carrier act uniformly without regard to claims experience or health status. **Ms. Darrington** then covered each area of the amended language, providing clarification and information as requested .

MOTION: **Senator Goedde** made the motion, and **Senator Broadsword** seconded, to send H 655 to the 14th Order for amendment. The motion carried by **voice vote**.

H 753a **Fire Insurance, Cancellation, Notice**

Mr. Paul Jackson, Farmers Insurance Group Government Affairs, addressed the Committee regarding this legislation. This bill will bring personal lines of fire insurance notice of cancellation for non-payment of premium in line with auto and commercial fire insurance law by reducing the notification period from 30 days to 10 days. H 753a does not affect any other notice of cancellation and applies only to mid-term cancellation for non-payment of premium. This legislation will bring uniformity with most other state laws; and, at 30 days, Idaho has the longest notification period of 30 states surveyed. H 753a was amended in the House of Representatives to meet concerns of the lending institutions, and the amendment codifies an additional five mailing days for personal line policies and commercial line policies. Most carriers presently allow some mailing period in addition to the notification period, so this merely clarifies what is already being provided. The Department of Insurance has reviewed this legislation, there is no fiscal impact, and there is no known opposition to this legislation.

Senator Compton posed several questions regarding the specific time limits for policy cancellation and his concerns whether this would allow sufficient time for a consumer to locate another provider for insurance coverage once they receive notice that their current policy has been cancelled.

Representative Max Black addressed the Committee advising that the purpose of this legislation is to standardize notice of cancellation of fire insurance due to non-payment of premiums. **Mr. Black** cited the example of a person who initially purchases a policy, but then does not make their premium payment for the insurance. Currently, this individual would be covered for a 30-day period of time before the insurance provider could cancel their coverage, even though they had never paid for the insurance.

H 753a merely allows the agent and insurance company the option of mailing the notice of cancellation within 10 days, just as with auto and commercial fire insurance, rather than waiting 30 days. This bill does not establish a new time line, but merely standardizes notice of cancellation on personal fire insurance with commercial fire lines and individual auto insurance.

Discussion and questions were posed by the Committee regarding various types of insurance and current cancellation policies and requirements. **Representative Black** confirmed that H 753a would not apply to renewals, but only new business in which the policyholder had failed to make payment on the premiums.

Further discussion followed, and questions were posed from the Committee regarding the impact this legislation with regard to personal property mortgage requirements. **Mr. Jackson** stated that H 753a will not affect mortgage law in any way, as there is already a 10-day notification requirement.

**UNANIMOUS
CONSENT:**

Due to time constraints, and noting that some Committee members were requesting additional clarification from Mr. Jackson, **Chairman Andreason** asked for **Unanimous Consent** to hold H 753a in Committee to the call of the Chair, with the intent to bring it back to the Committee for further consideration after **Mr. Jackson** provided the additional information and clarification of questions posed by Committee members. **The Unanimous Consent passed without objection.**

ADJOURNMENT: The meeting was adjourned at 2:44 p.m. by **Chairman Andreason.**

Senator John Andreason
Chairman

Olga Copley
Secretary

TESTIMONY

Mr. Steve Thomas, Representing Community Loans of America H784: Idaho Title Loan Act

- More accurately described as the “Idaho Title Loan Consumer Protection Act.”
- Based on an ALEC model, after an industry-Department of Finance meeting in Fall 2005, this bill has been “Idahoized” through multiple drafts by industry and reviewed by the Department of Finance.
- Applies to Title Loans, which are nonpurchase money consumer loans secured by a motor vehicle with the loan scheduled to be repaid in either a single installment or in multiple installments that are not fully amortized. Does not apply to a motor home, mobile home or manufactured home.
- In addition to the consumer protection provisions added by this Act, all provisions of the Idaho Credit Code relating to consumer loans apply to Title Loans.
- Any Title Loan made by a person who is not licensed under the Idaho Credit Code is not enforceable.
- Since Title Loans are currently permitted under the Idaho Credit Code, this Act raises the bar in favor of consumers by creating consumer protections, including the following:
 - Requires conspicuous disclosure to consumers that Title Loans are intended to meet short term cash needs only.
 - Gives the consumer the right to cancel a Title Loan by returning the loan funds within one day.
 - Prohibits Title Loan Agreements whose term exceeds 30 days.
 - Prevents excessive renewals of a Title Loan by requiring a minimum 10% principal reduction each month beginning with the third renewal, so that a Title Loan must be repaid in full after the end of 12 months after the Title Loan is made.
 - Prohibits adding accrued interest to the principal a part of any renewal.
 - A Notice to Cure Default must be provided to a consumer before a title lender may repossess the motor vehicle or take any other collective action.

ATTACHMENT #1

- If a consumer defaults, a title lender*^s only recourse against the consumer is repossession of the pledged motor vehicle, with exceptions for obstruction, damage or fraud committed by the consumer.
 - No further finance charges may be assessed after the title lender has obtained possession of the motor vehicle.
 - Prohibits Title Loans in excess of the retail value of the pledged motor vehicle.
 - Prohibits the waiver of any consumer right or protection afforded under the Act.
 - Prohibits a title lender from purchasing a motor vehicle that secures a Title Loan made by the title lender.
 - Prohibits requiring a consumer to provide any additional guaranty for a Title Loan.
- The Act does not apply to banks, savings and loan associations, credit unions, insurance companies or industrial loan companies that are licensed and regulated by a state or the United States.
 - Effective July 1, 2006.
 - No fiscal impact to the general fund or other special fund.
 - Recent track record:
 - “Do Pass” unanimous recommendation by House Business Committee
 - House Floor vote 66-0-4

TESTIMONY
Lyn Darrington, Lobbyist for Regence BlueShield
House Bill 655

March 23, 2006

Chairman John Andreason and Members
of the Senate Commerce and Human Resources Committee
Idaho State Legislature
State Capitol Building
P.O. Box 83720
Boise ID 83720

Re: Testimony before the Committee on HB 655, Product Discontinuation

Mr. Chairman and Members of the Committee:

My name is Lyn Darrington and I am before you today to represent my client Regence BlueShield of Idaho. Regence BlueShield of Idaho is a domestic health insurance company that has been doing business in the state for 60 years. Today Regence has over 170,000 members in three lines of business — large group, small group and individual.

I bring HB 655 before the committee today on behalf of my client. HB 655 is a proposal that would allow health insurers to discontinue obsolete, closed products that are on the market and provides for the ability for those members to move to any open products being offered on the market today.

Health insurance carriers remain competitive by constantly looking at the products that are offered in the marketplace and developing products that will be attractive to the purchasers. When insurers can offer products that sell well and meet the purchasers*needs at an acceptable price point the company is competitive. Today under existing Idaho law health insurers cannot discontinue products that have become obsolete in the market and are no longer being actively marketed.

Consequently, there are some products in the market today that have only a handful of people enrolled. Product flexibility will allow insurers to make market based decisions of product offerings based upon what customers want and can afford.

Regence has been working with the Department of insurance for nearly two years on this proposal and the language that is before you today. Many other states have enacted laws, rules or used other provisions to allow health insurers the ability to discontinue products. H655 addresses the small and large employer and individual markets. it is modeled after other states*laws with three primary components to this legislation:

- A 90-day notification to members of discontinuation (appears on page 1, line 41; page 3, line 19; and page 4, line 40).
- Guaranteed renewability as protected by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (referenced on page 2, line 4; page 3, line 3; and page 4, line 46). Affected persons will have the option to purchase all other products offered by an insurer.
- Requires that the carrier will act uniformly without regard to claims experience or health status (appears on page 2, line 7; page 3, line 28; and page 4, line 49).

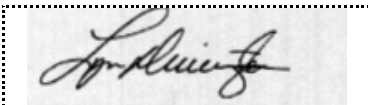
H655 offers some additional protections in the small employer and individual markets. You should have before you some amendments that speak to these protections:

1. A carrier must continually offer a product for certain period of time before it may be eligible for discontinuation. The proposed amendment will appear on page 3, line 13 - changing to 36 consecutive months. The same change will also appear on page 4, line 34.
2. A carrier cannot discontinue more than a certain percentage of the small employer line of business or the individual line of business. The proposed amendment will appear on page 3, lines 14-15 — changing 20% of total enrollees to 15% of the total line of business for small employer. The same change for the individual line of business will appear on page 4, lines 36-37.

These amendments are the product of a consensus agreement between my client Regence BlueShield of Idaho and Blue Cross of Idaho. It is my understanding that the amendments also address concerns others had with the language of H655. In addition, representatives from both my client Regence and Blue Cross of Idaho met with the Department of Insurance to verify that the Department was comfortable with the proposed changes.

Mr. Chairman, I am not aware of any opposition to H655. I would urge the committee to send the bill to the 14th Order so that the amendments before you may be included. Thank you for your consideration. I will stand for questions.

Respectfully,



Lyn Darrington
Lobbyist for Regence BlueShield of Idaho

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 29, 2006

TIME: 1:00 p.m.

PLACE: Room 437

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai

MEMBERS ABSENT/ EXCUSED: None

CONVENED: The meeting was called to order by **Chairman Andreason** at 1:03 p.m.

GUESTS: The sign-in sheets will be retained in the Committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).

MINUTES: **Senator Werk** moved to accept the Minutes of March 2, March 7 and March 9, 2006 as written. **Senator Coiner** seconded the motion. The motion carried by **voice vote**.

H 822

Self-Funded Health Care Plans

Representative Bill Deal addressed the Committee regarding this legislation. This is a companion bill to H 825, as it pertains to Multiple Employer Welfare Arrangements (MEWAs) provided in the private sector. Multiple employer plans are much different than single employer plans and are often marketed to employers in much the same way as insurance. As MEWAs are not currently regulated, H 822 will add significant public protections to the existing law governing self-funded plans, but imposes fewer regulatory requirements on self-funded plans than are imposed on insurance companies.

The proposed amendments add a definition for multiple employer plans and require that self-funded plans maintain adequate reserves to cover anticipated health claims of the employees covered by the plan, maintain some additional surplus to cover losses in the event claims are underestimated, maintain stop loss coverage to protect against catastrophic losses, use a qualified actuary in establishing rates and reserve requirements, provide quarterly financial summaries to the Department of Insurance, use a properly licensed third party administrator, provide notice to prospective participants that the plan is not insurance and not entitled to guaranty association protection, and provide detailed information when applying to the Department for registration. There is no fiscal impact, as the Department of Insurance currently regulates plans subject to this chapter and will continue to do so using existing resources.

Mr. Roy Eiguren spoke in favor of H 822 on behalf of Amalgamated

Sugar and Employers Resource Corporation. He stated that H 822 is consensus legislation resulting from the work of a great many people, including the Department of Insurance. **Mr. Eiguren** wanted to state for the record that his client, Employers Resource Corporation, has been in ongoing litigation with the Department of Insurance. This litigation is not associated in any manner with H 822 ; and, in the event that this client does not win their appeal to the Supreme Court, they will register in accordance with the requirements of this legislation.

Questions were posed by the Committee regarding the application of this legislation to county and governmental agencies, and the 90-day time line for entities to register with the Department of Insurance. **Representative Deal** advised that government joint agency self-funded health care plans are addressed with the companion legislation, H 825. **Mr. Shad Priest**, Deputy Director for Department of Insurance, confirmed that the 90-day time line pertains to submission of a *complete* application form, and this would be sufficient time for the Department to conduct their review and approval process.

Senator Cameron addressed the Committee to state publicly that the two bills, H 822 and H 825, are “not the final solution.” He further stated, “We really walk a delicate balance, and we ask the Department to walk a delicate balance, between regulation of these companies to protect the consumers and not bankrupting the current proposers.” **Senator Cameron** continued stating, “This is a first step, a reasonable step to request their participation ... but don’t expect that this will all go away and won’t be addressed again in the future, because there is still substantial lack of regulation compared to what the traditional sector is having to face.” He stated his support of both bills and recognized that this legislation is a compromise of all parties. He complimented **Representatives Deal and Black**, as well as the industry, for pushing forward to find solutions to this issue.

MOTION: **Senator Goedde** made the motion and **Senator Werk** seconded, to send H 822 to the floor with a **do pass** recommendation. The motion carried with a **voice vote**.

H 825 **Joint Agency Self-funded Health Care Plans**

Representative Max Black addressed the Committee regarding this legislation. This bill would create a new chapter of the insurance code to regulate self-funded health plans offered to employees of governmental entities when the self-funding arrangement involves more than one employer. Most sections of this bill are parallel to H 822, but have been focused to deal specifically with publicly funded agencies. There is currently only one of these in the State of Idaho, and it is referred to as the GemPlan, and it has been in existence for a couple of years. They have come forth willingly and cooperative to work with the Department of Insurance to develop this legislation.

This bill will create some added costs to the Department of Insurance, because it requires that the Department bear all costs associated with examining the public agency plans covered by this chapter. However, because the Department is funded from fee revenue rather than the

general fund, the increased costs will impact the general fund only to the extent that there is a reduction in any surplus fee revenue that would otherwise flow to the general fund. This bill also exempts public agency plans from all state taxes. Currently, as there is only one existing plan that would fall within this chapter, it is not regulated by the Department of Insurance and does not pay any premium tax or subscriber tax through the Department of Insurance, so the exemption would not create any loss of premium tax or subscriber tax to the general fund.

Senator Broadsword questioned why the amount of the reserve fund to be maintained by the entity was not stipulated in this legislation.

Representative Black responded that the specific amount of each entity's reserve fund would be determined by their Actuarial Plan.

Senator Cameron also commented on this issue, stating that the reason for this difference, is that when dealing with public agencies there is the appearance that taxpayer dollars will be available to protect the employees.

Mr. Skip Smyser, an attorney with Conley & Smyser Chartered who was representing GemPlan, spoke in favor of H 825 and stated he believes "this is a positive first step." He commended all of the parties involved in this legislation, particularly the Department of Insurance staff. His clients were very receptive to providing disclosure and responsive to the need to establish a certain level of regulation. This is a cooperative effort, and they look at Department as an appropriate tool to assist where necessary.

MOTION:

Senator Cameron made the motion, and **Senator Compton** seconded, to send H 825 to the floor with a do pass recommendation. The motion carried by a **voice vote**.

HCR 65

Higher Education, Personnel Issues, Study

Chairman Andreason turned the meeting over to **Vice-Chairman Coiner** while he presented HCR 65 to the Committee. This resolution acknowledges the importance of recruiting and retaining highly educated, qualified and respected faculty to ensure continued educational excellence at Idaho's institutions of higher education. It requests that the Idaho State Board of Education study the challenges facing Idaho's institutions of higher education in the recruitment and retention of faculty and to make recommendations.

Senator Andreason advised that It became clear through the work of the Interim Committee, and the work of both Commerce and Human Resources Committees, that Idaho's universities and colleges face unique challenges in a national and international labor market that is significantly different than most other state agencies. While it is the Division of Human Resources within the Office of the Governor that manages the personnel merit system for classified employees at all state agencies, he noted that as pre-statehood, land grant institutions Boise State University, University of Idaho, Idaho State University and Lewis-Clark State College all manage their own human resources. Faculty at Idaho's public institutions are non-classified, contractual employees, so only the institutions themselves can provide data and statistics on this segment of their

workforce.

This resolution requests that the State Board of Education work with the state's higher education institutions to conduct a study of personnel issues and challenges with respect to faculty, especially as it relates to retention and recruitment. It is an appropriate request of the State Board of Education to assist in this study, and he has been in discussion with the Board of Education and they have expressed their willingness to undertake this review.

MOTION: **Senator Goedde** made the motion and **Senator Broadsword** seconded to send HCR 65 to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

Vice-Chairman Coiner then returned the meeting to **Chairman Andreason**.

H 753a **Fire Insurance, Cancellation, Notice**

Mr. Paul Jackson, Government Affairs for Farmers Insurance Group, addressed the Committee. After the last meeting, **Mr. Jackson** had provided additional information to the Committee members, both personally and by e-mail, to address questions and provide clarification with regard to notice of cancellation time lines, including a comparison of personal and commercial fire and personal auto insurance. All members agreed that the information they had received from **Mr. Jackson** addressed their questions satisfactorily, and no further testimony was requested.

MOTION: **Senator Compton** made the motion and **Senator Goedde** seconded to send H 753a to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

ADJOURNMENT: The meeting was adjourned at 1:45 p.m. by **Chairman Andreason**.

Senator John Andreason
Chairman

Olga Coply
Secretary

MINUTES

SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** April 4, 2006
- TIME:** 1:00 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Senators Goedde, Compton, Broadsword
- MEMBERS ABSENT/ EXCUSED:** Senators Coiner, Cameron, Stegner, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order 1:10 p.m. to present testimony, meeting minutes, and honor the Committee's Senate Page, **Lacey Keller**.
- GUESTS:** The sign-in sheets will be retained in the Committee's office until the end of the 2006 legislative session, and then will be maintained in the Legislative Library (Basement E).
- MINUTES:** **Chairman Andreason** said, without objection and with concurrence of the Committee, that the Minutes for March 14, March 16, and March 23, 2006, would be accepted and signed as written.
- PRESENTATION:** **Chairman Andreason** presented **Lacey Keller**, Senate Page for the second half of the 2006 legislative session, with letters of appreciation and recommendation from the Committee and a commemorative watch bearing the Seal of the State of Idaho. **Lacey** spoke briefly about her experience as a Senate Page, what she had learned, and how this experience had helped to build her confidence. **Chairman Andreason** and the members of the Committee thanked her for her service and wished her good luck in her future educational and career endeavors.
- H 761aa** **Contractor Licensing, Bonds**
- Chairman Andreason** introduced **Representative Max Black** to present this bill before the Committee. This bill was amended twice in the House of Representatives, prior to submission to the Senate and the Commerce & Human Resources Committee for hearing.
- This bill requires that electrical, plumbing, and heating and ventilating (HVAC) contractors provide proof of workers compensation insurance, proof of liability insurance in the amount of \$300,000 and a surety bond in the amount of \$10,000 payable to a consumer in the event the electrical, plumbing, or HVAC contractor fails to meet the requirements of applicable codes or rules.
- Representative Black advised that this legislation has "gone in and out" for the past three years. This bill is the result of almost three years of

effort and serves two principal reasons: (1) To eliminate obsolete sections of the plumbing and HVAC licensing laws that require plumbing and HVAC contractors to obtain a \$2,000 bond; and (2) to provide uniform requirements for plumbing, electrical and HVAC contractors to obtain a bond, liability insurance and Workers Compensation insurance, if applicable.

The current bonding requirement in the *Idaho Code* for plumbing and HVAC contractors is that they must obtain a \$2,000 bond that is payable to a consumer only if the consumer takes the contractor to court, and the court determines that the contractor has violated a provision of the plumbing or HVAC code. Since these provisions were added to the *Idaho Code* in the 1960's, there has only been one instance where a consumer has successfully recovered on a bond.

This bill would require all plumbing, electrical and HVAC contractors to obtain a \$10,000 bond that would be payable to the consumer in two circumstances: (1) A contractor violates a rule or rules of the licensing plumbing, electrical or HVAC licensing Board and/or (2) a contractor fails to perform a requirement placed upon him pursuant to a contract between a contractor and a consumer.

In the event a consumer believes that a contractor has violated a rule or has failed to perform within the scope of a contract, the consumer may petition the applicable licensing board to make a determination whether a rule has been violated or a contract breached. In the event that a licensing board makes such a determination, then the bonding company that has provided the bond makes payment of the \$10,000 directly to the consumer without the consumer having to go to court.

A licensing board may provide for a lower bond, specifically a \$5,000 bond, for contractors who perform \$40,000 or less of contract per year and don't provide more than \$5,000 to any one consumer per year.

This legislation does not become effective until July 1, 2007, to allow licensing boards to promulgate rules to implement these new code provisions and bring those rules to next year's session of the legislature for review and approval.

Finally, in addition to these bonding requirements, H 761aa requires all plumbing, electrical and HVAC contractors to have proof of liability insurance in the amount of \$300,000 and proof of Workers Compensation insurance, if applicable.

Representative Black advised that he was aware of the concerns expressed regarding the provision for "inactive license status" for plumbers and HVAC. **Mr. Black** stated that current statute includes a provision for an "inactive" license status for electricians, and it is his intention that this same status will be provided for plumbers and HVAC. Additionally, some of the larger contractors are self-insured and this bill does not address this. **Mr. Black** assured the Committee that these issues would be addressed, and that is why the effective date has been moved forward to July 1, 2007, instead of 2006.

Ms. Pam Eaton, President of the Idaho Retailers Association, addressed the Committee regarding H 761aa. **Ms. Eaton** advised that the Association does have some concerns with this legislation. She stated that the proponents of this bill did not talk to them about it until it was introduced in the House of Representatives, where it was passed through the Committee very quickly. As they had a difficult time “trying to figure out what exactly our concerns were before the House Committee hearing” they did not testify at that time. **Ms. Eaton** stated that she has since discussed her concerns with **Representative Black**, and as the effective date has been postponed until July 1, 2007, and he has assured her that there will be additional legislation next session to correct those concerns, she will not formally oppose H 761aa. She wanted to inform the Senate Committee, however, that the Association does have concerns, and they will be looking forward to addressing those concerns during the interim, for legislative correction next session.

Mr. Jerry Peterson then addressed the Committee on behalf of the Idaho Building Trades. **Mr. Peterson** advised that H 761aa will have some unintended consequences, one of which is the cost of doing business by requiring everyone to carry the limited liability and worker compensation insurance, even if they are not using it (such as a service company that does not have any employees). The bonding requirement will add an additional and significant financial burden on top of that. **Mr. Peterson** stated that he has spent over five hours speaking to bonding companies, and in order to obtain the \$10,000 bond the client is required to file a financial statement and/or a credit report; and, if the credit report was poor, the bond would be expensive to purchase, if not denied to the client entirely. A bond of \$5,000 or less does not require a credit report or financial statement. Also, **Mr. Peterson** pointed out the “aggregate aspect” of a bond: If a person is doing work for 20 or 100 houses, the bond will not pay \$10,000 per occurrence but is limited to \$10,000 total payout. This is not a “fair across the board” requirement to have everyone obtain a \$10,000 bond.

Mr. Peterson reminded the Committee that during the rules review for this legislative session, there was considerable controversy surrounding the inclusion of low voltage contractors under the licensing requirements for electricians. This entire controversy came about because there was no communication with that industry; the state was trying to take legislative action and the industry had not been informed or consulted. **Mr. Peterson** had copies of all board meeting minutes for electrical, plumbing, and HVAC from 2005 to present, and there is only one brief mention of this legislation at only one electrical board meeting. He, personally, was not aware of this bill until the RS was sent to print by the House of Representatives last month.

Mr. Peterson stated that when the bill was presented to the House of Representatives, it was presented as “consumer protection” and supported by the Division of Building Safety. He felt it was important to review the statute authorizing the Division of Building Safety; and, he pointed out that “consumer protection” is not included under the auspices of the Division of Building Safety. The reality is that the bond is not that effective, and the prevailing problem in the industry is compliance and

enforcement. He estimated that up to one-half of the individuals on any given crew working on a house would not be licensed. He receives many telephone calls from people who start their shift at 5:00 p.m. on Friday and work until Monday morning at 8:00 a.m. They are allowed to work as many hours as they want; and the reason given when he asks them why, is "the inspectors don't work on weekends." **Mr. Peterson** acknowledged that there are legitimate public safety and consumer concerns, but these are not addressed by H 761aa. When the parties are placed in an adversarial position, there is no process for mediation or any provision for appeal with this legislation.

Mr. Ray Coon, owner of Sanbury Plumbing in Caldwell, ID, and Chair of the Idaho Plumbing Board, is also opposed to this legislation. **Mr. Coon** stated that he was promised the bill would be held until input was received from all affected parties. He has been in contact with his insurance representative regarding the bonding requirement and was told that the cost could be anywhere from \$500 to \$1,500 for the type of bond required, and the agent did not even know which company would be able to provide this bond for him. **Mr. Coon** is concerned because this legislation was promulgated by the insurance industry, and not the building and contracting industry; further, it was not brought before any of the Boards or Committees for discussion prior to the initiation of the legislation. He stated that he had requested a special meeting of the Plumbing Board to discuss this, and he was told by **Roy Eiguren** that the legislation would be held until they could meet and not go forward until next year.

Mr. Bob Corbell, a representative of the Idaho HVAC Contractors Association and Independent Electrical Contractors of Idaho (IEC), spoke in support of H 761aa. He stated that the bill came about after a committee meeting last year, and a request from **Senators Stegner, Goedde and Cameron** for an additional look at establishing a bond requirement. This is not "fast tracked" legislation as others have alleged, and it is not a Division of Building Safety bill. It is an industry bill; and both the current Chair of the Electrical Board and the Vice-Chair of the HVAC Board each, individually, support this bill. The purpose of going forward with the legislation is to allow these boards to proceed with the development of rules as they deem appropriate to their particular industry.

Senator Broadsword posed questions regarding the price of the bond, and what appeared to be conflicting testimony regarding this. **Mr. Corbell** agreed that the prices given for the \$10,000 bond are estimates only, as there has not previously been any market in Idaho for this type of bond. The insurers will have to investigate among available bond providers once the requirement becomes law; and, when the market for the bond is established, he is certain that the companies will then come forward to sell them.

Senator Compton asked why the Committee should approve this bill, which "is being presented at the eleventh hour and does not go into effect until July, 2007," when there remain many unanswered questions regarding the cost of bonding and a lack of consensus among the affected industry boards. **Mr. Corbell** stated that they "want to get the

legislation on the books and have the boards be able to develop rules and so forth that come back to you for approval next year, before the implementation date in 2007.” He reminded the Committee that “we did the very same thing when we brought HVAC licensing on – we put it off, so we had a year for the Board to have its rules into the Governor by August.”

Representative Black stated he recognizes that “there are some things that will have to be worked on, and this is the reason we did put it off for a year – so the rules can be worked on.” Also, the insurance companies have stated that they would need some time to develop the type of bond required. He stated that H 761aa “is the foundation” on which they can establish consistent bond and insurance requirements for all of the affected contractors.

Without objection and with the concurrence of Committee members, **Chairman Andreason** stated that no further action would be taken at this time, and H 761aa would be held in Committee to the call of the Chair.

ADJOURNMENT: **Chairman Andreason** then adjourned the meeting at 1:51 p.m.

Senator John Andreason
Chairman

Olga Copley
Secretary