

# House State Affairs Committee

Minutes  
2006



MINUTES

**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** January 12, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth

**GUESTS:** Please refer to the attached committee sign-in sheet.

Chairman Deal called the organizational meeting to order at 9:02 A.M. Representative Carlos Bilbao was welcomed as a new member on the House State Affairs Committee. Ms. Catherine Hedrickson, House Page, from Jerome, Idaho was introduced to the committee.

Chairman Deal mentioned that this committee will have the usual mix of legislation as well as two key issues – renovation of the capitol and reduction of the super majority. It still has not been determined if the “same sex marriage” amendment will come through this committee.

There will be no committee meetings on Friday, January 13, 2006 or Monday, January 16, 2006.

Rules review will be held on Tuesday and Wednesday, January 17-18, 2006 with Vice Chairman Smylie chairing those meetings. Rules will be reviewed in reverse order due to a PUC scheduling conflict.

On Thursday, January 19, 2006 the committee will begin considering legislation. Chairman Deal encouraged the members to get any legislation for this committee to him as early as possible. He asked the members to review the letter from the Director of Legislative Services and the financial report on the Lands and Endowment Fund.

**ADJOURN:** There being no further business, the meeting was adjourned at 9:12 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES

**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** January 17, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth

**GUESTS:** Please refer to the committee sign-in sheet and note the presenters highlighted below.

Chairman Deal called the meeting to order at 9:02 with a quorum being present. The first order of business was to review the minutes of January 12, 2006.

**MOTION:** Representative Ring made a motion to approve the minutes of January 12, 2006 as written. The motion carried by voice vote.

**RS15630** Chairman Deal announced that due to technical difficulties, **RS15630** would be presented on Wednesday, January 18, 2006.

Vice Chairman Smylie assumed the duties of the Chairman to proceed with the agency rules review.

**DOCKET NO.  
38-0601-0401** **Idaho Emergency Communications Commission Pending Rule: Ms. Joanna Guilfooy**, Deputy Attorney General, Department of Administration, presented **Docket No. 38-0601-0401** to the Committee. She explained that the Emergency Communications commission was established in the Department of Administration, effective July 1, 2004. The Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. These rules will govern the mediation process. Mediation will benefit cities, counties, ambulance districts and fire districts operating consolidated emergency communications systems.

The effective date for the temporary rule was December 1, 2004. There were no hearings requested and there were no comments received.

**MOTION;** **Representative Stevenson** moved that the Committee accept **Docket No. 38-0601-0401** as presented. The motion carried by voice vote.

**DOCKET NO.  
38-0602-0501** **Idaho Communications Commission Grants Pending Rule: Ms. Joanna Guilfooy**, Deputy Attorney General, Department of Administration, explained that **Docket No. 38-0602-0501** will govern the grant process used by the Idaho Emergency Communications Commission and sets forth the process to be used by the Commission to

distribute moneys from the Idaho Emergency Communications Fund to eligible entities. The emergency fund receives 1% of the 911 funds collected. All grant funds not expended for costs associated with the applicant's award shall be returned by May 31 of the grant cycle.

There were no requests received for hearings on this rule nor were there any comments received.

**Representative Smylie** asked if the one-month time frame outlined on Page 65 provided adequate time for the application process. **Ms. Guilfooy** said the Commission anticipated that the applications will be available well before July 1 allowing additional time to apply.

**MOTION:** **Representative Snodgrass** moved that the Committee accept **Docket No. 38-0602-0501** as presented. The motion carried by voice vote.

**DOCKET NO. 54-0201-0501** **College Savings Program Pending Rule:**  
**Mr. Christopher Clark**, Legal Counsel for the College Savings Board, presented **Docket No. 54-0201-0501** to the Committee. Recent changes adopted by the federal government in connection with the USA Patriot Act and various federal money laundering acts require banks and investment companies to adopt security measures to help limit the illicit movement of funds. TIAA-CREF, the investment company that acts as the administrator of the Idaho College Savings Program, has adopted internal policies restricting the dollar amounts and types of checks that it will accept from investors in an attempt to comply with anti-money laundering statutes.

This proposed rule clarifies and expands on the definition of the term "cash" as that term relates to contributions by check. In an effort to mirror the intent of the USA Patriot Act and various federal money laundering acts, this rule is being amended to further clarify and restrict the dollar amounts and types of checks that will be accepted from parties making contributions to accounts established pursuant to the Idaho College Savings Program.

**Representative Hart** asked what problem this change is seeking to fix. **Mr. Clark** replied that banks and financial institutions must comply with federal regulations for contributions. The changes made here allow contributions by personal check in any amount, limit the amount to \$10,000 for third-party checks, and specify that money orders, cashier's checks, traveler's checks, starter checks and credit card convenience checks are not permitted.

**MOTION:** **Representative Snodgrass** moved that the Committee accept **Docket No. 54-0201-0501** as presented. The motion carried by voice vote.

**ADJOURN:** There being no further business, Chairman Smylie adjourned the meeting at 9:16 A.M.

---

Representative Steve Smylie  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** January 18, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Anderson

**GUESTS:** Please refer to the attached Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The first order of business was to review the minutes of Tuesday, January 17, 2006.

**MOTION:** **Representative Pasley-Stuart** moved to accept the minutes of Tuesday, January 17, 2006 as written.

**RS15630C1** **Speaker Bruce Newcomb** introduced **RS 15630C1** to the Committee. He explained that this legislation is in response to the Kelo case in Connecticut. This case involved property that was condemned and then given to another public entity, even though there was a lot of opposition.

The Speaker began working on this issue in May after the decision on the Kelo case was handed down. This legislation is a product of the Attorney General's Office, the Governor's office and the majority office.

This legislation sets forth the criteria by which property in this state can be condemned. Page 2, Section 2.50-2018(h), defines "*deteriorated area and deteriorating area*" as an area in which (1) there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, or overcrowding, unreasonably endangers life or property by fire; (2) is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime; and (3) is detrimental to the public health, safety, morals or welfare.

If an area is deemed blighted, each parcel of real property within that area must be looked at to see if each meets all three of the conditions above. Once property is acquired through the exercise of the power of eminent domain, it cannot be used for private enterprise. This legislation does not stop urban renewal, but has narrowed how property can be acquired.

**Representative Miller** asked if this legislation addresses water rights, and the Speaker said "no". Water is considered a chattel property and if not used it is lost. The Constitution is quite clear about protection of water rights, and there are processes in place if the land use changes.

**MOTION:** **Representative Smylie** moved to introduce **RS15630C1** for printing. The motion carried by voice vote.

Chairman Deal asked Vice Chairman Smylie to assumed the duties of the Chairman and to proceed with the agency rules review.

**DOCKET NO.**  
**31-1101-0501**  
**&**  
**DOCKET NO.**  
**31-7103-0501**

**Safety and Accident Reporting Rules for Public Utilities**  
**Mr. Paul Kjellander**, President, PUC, asked if he might address **Docket No. 31-1101-0501** and **Docket No. 31-7103-0501** together since both of these rules deal with safety. These rules adopt, by reference, the new federal safety requirements for public utilities and railroads. By bringing Idaho's safety rules up to federal code, entities just have one set of rules to follow.

There were no comments submitted on these rules.

**MOTION:** **Representative Ellsworth** moved that the Committee accept **Docket No. 31-1101-0501** as written. The motion carried by voice vote.

**MOTION:** **Representative Edmunson** moved that the Committee accept **Docket No. 31-7103-0501** as written. The motion carried by voice vote.

**DOCKET NO.**  
**31-2101-0402**

**Customer Relations Rules for Gas, Electric, & Water Public Utilities**  
**Mr. Paul Kjellander**, President, PUC, introduced **Docket No. 31-2101-0402**, noting that these rules deal with all utility customer relations rules, except telephone. The negotiated rulemaking process began in July 2004 and went the whole nine yards. The Commission held public workshops in Boise and in Coeur d'Alene. The workshops were well attended and parties participating included the Idaho Community Action Network, Idaho Power Company, PacifiCorp, Avista Utilities, Intermountain Gas, the Community Action Partnership Association, the Idaho Office for Refugees, Idaho Legal Aid, the North Idaho Community Action Agency, and the Commission staff. The workshops and subsequent conversations among the parties did not result in consensus, but resulted in the utilities making several changes to the Utility Customer Relations Rules.

Those changes dealt with (1) contents of notices that utilities are required to give customers before terminating service during the three months of the winter moratorium; (2) eligibility requirements and the operation of the winter moratorium; and (3) termination of utility services on the weekend or legal holiday. These rules reflect only those items where consensus was reached; those that all parties could live with.

**Representative Ring** asked if there is an estimate of what it will cost the utilities to follow these rules, and Mr. Kjellander replied that the ones we are seeing here should not result in increased rates.

**MOTION:** **Representative Andrus** moved that the Committee accept **Docket No. 31-2101-0402** as written.

**DOCKET NO.**  
**31-6101-0501**

**Rules for the Measurement of Stray Current or Voltage**  
**Mr. Paul Kjellander**, President, PUC, said the stray voltage rules are a mandate from this body. Having only a six-month window to develop these rules was a concern, but the utilities, the dairy industry and the

Commission staff was able to work openly and honestly to produce these rules. There were probably things that would have been more beneficial to each party, but these rules are a good start.

The Commission's stray voltage rules set the parameters for what needs to be done if there is a problem at a dairy. The rules standardize the measurement and testing procedures used to measure stray voltage and current at dairy farms. The rules establish a time frame for the tests, how the tests are conducted, and who can do the testing.

These are a proactive set of rules to allow the utilities to provide service and the dairies to produce milk.

**MOTION:** **Representative Edmunson** moved that the Committee accept **Docket No. 31-6101-0501** as written.

**Representative Stevenson** asked if any requests to test for stray voltage have been processed using these rules. **Mr. Brent Olmstead**, representing the Milk Producers of Idaho, said there have been constant requests, and Idaho Power has been going out on their own to test, but not under these rules. **Mr. Rich Hahn**, representing Idaho Power, said they have done 40 tests under this protocol and over 500 tests total. **Representative Bilbao** asked about the results of the 40 tests, and **Mr. Hahn** said he just got the reports from quality control, but does not have the test results.

**VOTE ON MOTION:** There being no further discussion, a voice vote was called for on the motion to accept **Docket No. 31-6101-0501** as written. The motion carried by voice vote.

**ADJOURN:** The agency rules review was completed with all agency rules brought before the Committee being accepted. There being no further business, Chairman Smylie adjourned the meeting at 9:30 A.M.

---

Representative Steve Smylie  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** January 19, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Ellsworth and Loertscher

**GUESTS:** Please refer to the attached Committee sign-in sheet and note presenters highlighted below.

Chairman Deal called the meeting to order at 9:01 with a quorum being present. The first order of business was to review the minutes of Wednesday, January 18, 2006.

**MOTION:** **Representative Miller** moved to accept the minutes of Wednesday, January 18, 2006 as written. The motion carried by voice vote.

**PRESENTATION:** **Mr. Bob Meinen**, Director, Idaho Parks and Recreation Department, was introduced to present "*Experience Idaho*", *Investments in Idaho's State Parks*. Detailed information on this initiative can be found online at [www.parksandrecreation.idaho.gov](http://www.parksandrecreation.idaho.gov).

Mr. Meinen stressed the potential economic value of upgrading Idaho's state park system and indicated that with the State's surplus, now is a good time to make this investment. The goal of the statewide initiative is to fund needed improvements within Idaho's state parks that will preserve public spaces, provide economic assistance to local communities, and benefit the citizens of Idaho by expanding recreational possibilities and enriching visitor experiences within Idaho's state parks.

A video was presented that gave an overview of the proposed projects, showing that Idaho offers a multitude of outdoor recreational activities. Idahoans have always recognized the importance of setting aside special places for recreation. Approximately 2.5 million visitors visit Idaho's parks and recreation areas per year, approximately the same number of visitors who visit Yellowstone State National Park. The average visitor spends approximately \$26 per day, which amounts to an expenditure of \$72 million per year. Parks designated as "initiative parks" were highlighted in the video. These parks are Heyburn, Ponderosa, Eagle Island, Billingsley Creek Unit, Castle Rocks, Harriman, and a yet-to-be-determined Eastern Idaho State Park. Various facility renovations, new lodges and cabins, equestrian and hiking trails, an education center, a visitor center, along with other improvements are being proposed.

After the video, Mr. Meinen entertained questions from the Committee members.

- In response to questions about funding for maintenance, individual



projects, and what will happen if the entire \$34 million is not funded this year, Mr. Meinen offered the following comments. The "Experience Idaho" package contains \$3.8 million to address maintenance. In addition the 2007 agency budget includes a request for another \$6.6 million. That \$10.4 million would take care of about half of the state park's maintenance backlog. The \$34 million figure for this initiative was derived from master plans and from the public saying this is what we'd like to see. If the entire \$34 million is not appropriated this year, parks will be removed from the initiative list. The remaining parks will receive quality, complete projects as listed in the initiative package.

- In response to a question about offering long-term leases to private entities to build lodges and cabins, Mr. Meinen explained there are three models that can be followed: (1) the state can build the infrastructure and man the parks with state employees; (2) private enterprise can build and manage; and (3) the state can build the infrastructure and then private enterprise can come in and manage by hiring locals.
- Mr. Meinen was asked to address the changes to the state park reservation system. The old system required that visitors call the park and make their reservations during a 90-day window before their visit. A new system is being implemented that allows visitors to call a 1-800 number or to go onto the Internet to make their reservations. The window for making reservations has been expanded from 90-days to nine months prior to their visit. The new system was initially bogged down, but the contractor added additional servers and the system seems to be handling the demand.
- In response to a question about funding for the Eagle Island Park, it was explained that the project would be completed in a 2-3 year period at a cost of over \$8 million. The figures shown on the "question and answer" page for this project show that after completion, this facility would likely generate more revenue than it costs to operate the park.

**RS 15434**

**Mr. Mike Nugent**, Legislative Services Offices, introduced **RS 15434** to the Committee, saying this is his annual appearance. The purpose of this legislation is to make various codifier corrections to the Idaho code. The bulk of the corrections were made last year. The Committee was briefed on the corrections made on Page 4, Line 42; Page 5, Line 53; Page 6, Line 48; Page 9, Line 45 and Page 10, Line 2. The bulk of the remaining changes deal with changing a chapter heading and renumbering another provision.

**MOTION:**

**Representative Miller** made a motion to introduce **RS 15434** for printing. The motion carried by voice vote.

**RS 15519**

**Mr. Ben Ysursa**, Secretary of State, reminded Committee members that their year-end reports are due January 31, 2006. Anyone wishing to run in the 2006 primary election has between March 6 through 5:00 P.M. on March 17 to file their declaration of candidacy.

Mr. Ysursa then introduced **RS 15519** to the Committee. This legislation amends the Sunshine Law to simply fill the gap in campaign reporting. It requires candidates who lose the primary election to file campaign disclosure reports until they reach a zero balance. This reporting requirement is similar to what's required of those who lost in the general election. Having contribution limits allows a candidate to raise money after a campaign to pay for costs of the campaign. This legislation is needed to track that contribution limits are followed for the primary election.

A Committee member asked if a candidate who uses personal money for a campaign loan has to continue to report forever when they lose the primary election and do not run again. Mr. Ysursa explained that if the person wants to carry that loan forever they can or they can file a termination report and count the loan as a contribution not a personal loan.

**MOTION:** **Representative Stevenson** made a motion to introduce **RS 15519** for printing. The motion carried by voice vote.

**RS 15520C1** **Mr. Ben Ysursa**, Secretary of State, introduced **RS 15520C1** to the Committee. The bottom line that has occurred in the past is that various types of splinter groups have been allowed a separate contribution limit. This legislation clarifies that campaign contributions from affiliated entities be aggregated for the purposes of contribution limits. Other states with contribution limits and the Federal Election Campaign Act both contain similar provisions. Contribution limits are meaningless if splinter groups are each allowed a separate contribution limit.

**MOTION:** **Representative Andrus** made a motion to introduce **RS 15520C1** for printing. The motion carried by voice vote.

**RS 15521** **Mr. Ben Ysursa**, Secretary of State, introduced **RS 15521** to the Committee. This legislation amends the Sunshine Law. The issue of personal use of campaign funds is a "sticky wicket". This bill tracks the language of the Federal law and lists specific prohibitions pertaining to the use of campaign funds starting on Page 1, Line 14. The IRS code also contains this language. Mr. Ysursa said he feels this legislation will be better for all and is a step in the right direction. Candidates and officeholders should have wide discretion in the use of campaign funds, however, some parameters must exist in regard to what constitutes an impermissible "personal use".

**MOTION:** **Representative Stevenson** made a motion to introduce **RS 15521** for printing. The motion carried by voice vote.

**RS15590** **Representative Debbie Field** introduced **RS 15590** and stated she was carrying this legislation for Access Idaho. Many state agencies are accepting credit or debit card transactions and have added costs for these transactions. Contracting with the state's portal will allow agencies to charge a "convenience fee" for these transactions.

**MOTION:** **Representative Smylie** made a motion to introduce **RS 15590** for printing. The motion carried by voice vote.

**ADJOURN:** There being no further business to come before the Committee, Chairman Deal adjourned the meeting at 9:55 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** January 23, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representatives Anderson and Ellsworth
- GUESTS:** Please refer to the Committee sign-in sheet and presenters and guests highlighted below.
- Chairman Deal called the meeting to order at 9:01 A.M. with a quorum being present. The first order of business was to review the minutes of Thursday, January 19, 2006.
- MOTION:** **Representative Ring** moved to accept the minutes of Thursday, January 19, 2006 as printed. The motion carried by voice vote.
- RS 15407** **Mr. Karl Dreher**, Director, Idaho Department of Water Resources, introduced **RS 15407**, explaining that Idaho Code 67-1210(e) directs the State Treasurer to invest idle moneys in the state treasury, other than moneys in public endowment funds. This legislation will amend that section of code to remove the language prohibiting the State Treasurer from investing idle moneys in bonds, notes, or other similar obligations issued by public corporations of the State of Idaho including, but not limited to, the Idaho State Building Authority, the Idaho Housing Authority, and the Idaho Water Resource Board for periods beyond seven (7) days.
- The need for this amendment surfaced when the State Treasurer was recently prohibited from participating in the proposed refinancing of the bonded indebtedness for the Idaho Water Resource Board's Dworshak Hydroelectric Facility. The Treasurer was interested in purchasing the notes, but was prohibited from doing so. In researching this issue it seems no one knows why the 7-day limitation was included in Idaho Code 67-1210.
- MOTION:** **Representative Ring** made a motion to introduce **RS 15407** for printing. The motion carried by voice vote.
- RS 15382C2** **Mr. Dyke Nally**, Superintendent, Liquor Dispensary, introduced **RS 15382C2** to the Committee. This legislation clarifies the Liquor Dispensary's authority to sell non-alcohol merchandise in state liquor stores and contract stores where the merchandise is reasonably related to the Dispensary's exclusive authority to import and sell alcoholic liquor. Such items as Bloody Mary mix, tonic water, specialty olives and onions used in mixed drinks, and drink mixing implements would be sold for customer convenience.

There would be no fiscal impact from the passage of this bill, but there could be a slight negative fiscal impact if the bill does not pass. The bill merely clarifies the Dispensary's authority to continue to sell non-alcohol merchandise and treats all merchandise sold by the Dispensary equally with respect to disposition of sales tax proceeds and application of the Dispensary's surcharge for the benefit of the drug courts.

When asked by a Committee member if there have been any complaints from other retailers who fear their sales will decrease, Mr Nally said they have had none. The dispensary considers the merchandise being sold by neighboring retailers and also tries very hard to sell Idaho grown products.

A Committee member asked if this legislation will cause a change in the sales tax and the Dispensary's surcharge. Mr. Nally explained that at one time the sales tax was part of the cost of the product, but sales tax is now separated out on the receipts. The sales tax and the surcharge all go back into the liquor fund and are then distributed to the cities and the state. These funds are collected and distributed according to what is outlined in Idaho code.

**MOTION:** **Representative Pasley-Stuart** moved to introduce **RS 1538C2** for printing. The motion carried by voice vote.

**RS 15567** **Representative John Stevenson** introduced **RS 15567**, stating the purpose of this legislation is to make cemetery maintenance districts consistent with other taxing districts. The cemetery maintenance districts are the only districts required to have a bond in excess of their revenue. The intent of this legislation is to require a bond similar to the fire protection districts which is an amount fixed by the cemetery maintenance board, but in no case less than \$10,000.

**MOTION:** **Representative Smylie** moved to introduce **RS 15567** for printing. The motion carried by voice vote.

**PRESENTATION:** **Mayor Garret Nancolas**, Mayor of Caldwell and Chairman of the Idaho Emergency Communications Commission (IECC), presented the annual progress report for the Commission. Mr. Nancolas acknowledged the support the Department of Administration has provided since this Commission was created during the 2004 session. He thanked Joanna Guilfooy for her guidance and legal assistance.

Mr. Nancolas briefed the Committee on the Commissions's purpose and responsibilities as outlined in Idaho Code, Section 31-4816. The Commission consists of 14 members, 13 are voting members. Representative Wills serves on the Commission. Mayor Nancolas acknowledged those present who also serve on the Commission: **Scot Maring, Admin. Assistant, Department of Admin.; Commissioner Ann Cronin; Dia Gainor, Chief Idaho State Emergency Medical Services Communication Center; and Dodie Collier, Project Manager for the Statewide Interoperability Executive Council, SIEC.**

The Commission conducted eleven meetings between January 2005 and January 2006. In an effort to reach out to other areas of the state. Meetings were held in Twin Falls, Coeur d'Alene, and Pocatello, allowing

the public to make comments and voice their concerns.

An annual operating budget of \$115,500 was approved for FY06 – 85% of total annual projected revenues plus an \$18,000 grant received from the Bureau of Homeland Security. The Commission negotiated and approved a set of rules governing the Idaho Emergency Communications Commission Grants. The proposed rules are being reviewed by the 2006 legislature.

The \$18,000 grant, received from The Idaho Bureau of Homeland Security to support technology transfer to Public Safety Answering Points (PSAPs) in Idaho, was used to convert 1-meter, natural color digital aerial imagery gathered through the Agriculture Imagery Program into a usable product, providing the data to all PSAPs in the state.

Commissioner Cronin was elected by the Commission to serve as its member delegate with the National Emergency Number Association in addition to her role as its member delegate with the National Association of State 911 administrators. She also served as a liaison at the SIEC meetings. Commission Baker was selected to attend a three-day grant writing course offered at BSU.

The Commission negotiated and approved mediation rules and conducted its first mediation in April 2005. The mediation resulted in the Commission making four recommendations to the parties involved in an effort to resolve the issues.

A survey was issued to all counties soliciting detailed information about their PSAPs. Responses were received from all 44 counties, SIRCOM, and the six cities in Idaho that have PSAPs. The information will be compiled and used to develop a profile of each PSAP as well as to help develop a plan to achieve Phase II E911 compliance. The data will also be analyzed to identify areas in the state that lack enhanced 911 capabilities.

The Commission is researching the possibility of creating a full-time State E911 Coordinator position since statistics show states having a full-time Coordinator have made greater progress. The Commission will also be researching the issue of collecting emergency communications fees on prepaid wireless service.

Chairman Deal introduced **Ms. Pam Ahrens**, Director, Department of Administration. Ms. Ahrens served as Chairman of this Committee at one time.

**PRESENTATION:** **Colonel Dan Charboneau**, Director, Idaho State Police, briefed the Committee on the progress of the Statewide Interoperability Executive Council (SIEC), a Council created by Executive Order 2003-07 to develop a statewide radio system that will enable and improve real-time communication between all first responders. As a first step in the development of a statewide system that will meet the demands of today and take Idaho's emergency communications system into the future, SIEC has developed the "Idaho Cooperative Agencies' Wireless Interoperable Network (I-C-A-WIN) Concept, A Radio Interoperability Concept for Idaho.

Colonel Charboneau acknowledged the work of the IECC, saying that a Council member serves on that Commission. There is a great deal of coordination that goes on between the Commission and the Council. **Dodie Collier**, Project Manager for the SIEC, was recognized for her contributions to the Council.

Colonel Charboneau stated that Idaho presents many challenges geographically in getting resources and people in and out of areas. He referred to these challenges in the broadest sense of roads, bridges, water, hospitals and all of the groups that have an important need to get information back and forth in an emergency situation.

The I-C-A-WIN document is product of the labor of the SIEC for the last 18 months. It is a conceptual plan of how Idaho will meet the Federal Communication Commissions deadline for reducing radio frequencies by half. Idaho's current radios are based on 1960s technology. He used an analogy of using a Commodore 64 versus a Pentium 5 computer. The Council is concerned about redundant paths to get radio communications throughout the state either by microwave or other mechanisms. This is a daunting task which has generated many lively discussions. In the two years they have been together this effort is moving forward.

The SIEC will have a booth in the Rotunda on February 8, 2006 to show how they have taken radio interoperability from last year to this. They will be highlighting Bannock and Ada Counties, two very different areas, to show where they have taken radio interoperability. Seeing those two diverse projects will help paint a better picture.

The SIEC was created by an Executive Order and they are thinking about legislation to give them a home similar to that of the Idaho Emergency Communications Commission.

A Committee member asked if the communication problems have been solved in the Hells Canyon area. Colonel Charboneau said they have been and explained this was one of their first projects. Adams and Washington Counties and Idaho Power put together a system that can reach into Hells Canyon.

Another question was asked about security because of all the technology being used by officers to make their calls, such as cell phones. Colonel Charboneau said that under the National incidence Response Plan a unified command system is used with one commander who says when information goes out. Also moving to a digital transmission provides security and will do away with interference.

**ADJOURN:**

Chairman Deal thanked the presenters. There being no further business to come before the Committee, the meeting was adjourned at 9:40 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** January 24, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** None
- GUESTS:** Please refer to the attached Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The first order of business was to review the minutes of Monday, January 23, 2006.
- MOTION:** **Representative Miller** moved to accept the minutes of Monday, January 23, 2006 as written. The motion carried by voice vote.
- RS 15639** **Representative Lawrence Denney**, House Majority Leader, introduced **RS 15639**. This legislation proposes an amendment to Article III of the Constitution to define marriage. The language of this bill, including the term "domestic legal union" is intended to protect marriage as being only between a man and a woman.
- Representative Denney stated this is too important of a decision to be decided by the Legislature alone – it needs to be placed on the ballot.
- MOTION:** **Representative Loertscher** moved to introduce **RS 15639** for printing. **Representative Pasley-Stuart** asked for a roll call vote.
- ROLL CALL  
VOTE:** A roll call vote was called for by the Chairman. The motion to introduce **RS 15639** for printing passed by an 11 to 4 vote with three members being absent.
- Representatives Deal, Black, Edmunson, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao and Shepherd (2) all voted "Aye" and Representatives Miller, Ring, Smith and Pasley-Stuart voted "Nay". Representatives Smylie, Stevenson and Ellsworth were absent when the vote was taken.
- RS 15352** **Mr. Jan Cox**, Administrator, Division of Purchasing, Department of Administration, presented **RS 15352**, explaining that this legislation addresses concerns brought forth by vendors. Presently, all bid/proposal information received through the competitive bid process must be kept for three years and becomes public information. For bids that are awarded, this is not a problem; however, when an invitation to bid or request for

proposal is cancelled, the Division of Purchasing frequently receives one or more public record requests for the bid/proposal document, specifically the prices. This information provides a far more extensive look at how the company operates and how they do business and can create an unfair and artificial bid environment.

This legislation would allow the Division of Purchasing to immediately return all bid proposals to the submitting vendors.

Mr. Cox was asked if this legislation just pertains to purchasing or if it extends to contractors and subcontractors. He stated that construction projects are separate.

**MOTION:** **Representative Smylie** moved to introduce **RS 15352** for printing. The motion carried by voice vote.

**RS 15585** **Mr. Bob Corbell**, representing the Idaho Grape Growers and Wine Producers Commission, introduced **RS 15585**. Currently, annual fees are assessed on all grapes grown in Idaho in the amounts of \$100 for wineries and \$5 per acre for growers. This legislation would allow those who are not growing grapes for wholesale or retail to opt out of the fees assessed by the Idaho Grape Growers and Wine Producers Commission.

A grower or a producer will need to submit an annual letter to the Idaho Grape Growers and Wine Producers Commission, stating their intent to opt out of application for the upcoming fiscal year. This is similar to the requirements of other agricultural commissions. It is estimated that two or three growers will opt out which would amount to less than 100 acres.

When asked about the Commission's position, Mr. Corbell clarified that the Commission is in support of this legislation.

**MOTION:** **Representative Andrus** moved to introduce **RS 15585** for printing. The motion carried by voice vote.

**RS 15478C1** **Mr. Roger Seiber**, Capital West and representing the Wine Institute, introduced **RS 15478C1**. Based on a recent US Supreme Court ruling requiring equal treatment of in-state and out-of state wineries in the direct shipment of wine to consumers, Idaho's law was found to be unconstitutional. This legislation would create a permit system in Idaho and place Idaho in alignment with the court decision.

This legislation has been reviewed by Ted Spangler, Idaho Tax Commission; Bob Clements, Alcohol Beverage Control; Bill Roden, Idaho Beer and Wine Distributors Association; and Bob Corbell, Grape Growers and Wine Producers Commission.

In response to Committee questions, Mr. Seiber said he believes that 13 states have permit system in place. California produces about 85% of the wine in the United States, and they do have a permit system in place. More importantly, this legislation allows Idaho wineries to ship to other states.



**MOTION:** **Representative Edmunson** moved to introduce **RS 15478C1** for printing.  
The motion carried by voice vote.

**ADJOURN:** Chairman Deal informed the Committee that they will be meeting at 9:00 A.M. on Wednesday, January 25, 2006 to consider several more RSs. There being no further business to come before the Committee, the meeting was adjourned at 9:15 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** January 25, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Stevenson and Black

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The first order of business was to review the minutes of Tuesday, January 24, 2006.

**MOTION:** **Representative Pasley-Stuart** moved to accept the minutes of Tuesday, January 24, 2006 as printed. The motion carried by voice vote.

**RS 15615** **Mr. Tim Hurst**, Chief Deputy, Secretary of State's Office, introduced **RS 15615** to the Committee. The purpose of this legislation is to clean up the sections of Idaho Code relating to election procedures. Section 1 of this legislation is being amended to clarify the role of poll watchers in the election process and provide the ability to have watchers and challengers of elections when issues only are being voted on. The provisions for watchers and challenges will expand to other elections.

Section 2 is amended to allow the county clerk to use the statewide voter registration system (rather than having to mail notices) to notify the proper registration official or county clerk where the elector was previously registered so the prior registration may be cancelled. The new system does this automatically.

Section 3, Challenges to Elections, is amended to delete the provision for an elector to request that the information on their registration card be changed. The elector must re-register if the information is not correct.

Section 4 deals with furnishing lists of registered electors to school districts. In the past, some counties didn't have the capability to furnish lists by school district. With the implementation of the statewide voter registration system, lists are now available by school district, which provides a great deal of flexibility. This section is amended to reflect that capability.

In response to a question about the language on Page 1, Lines 40-42, Mr. Hurst clarified that the procedures for watchers and challengers are the same as they have been, but the language is added to expand the role of watchers and challengers to cover issue elections. When asked a

question about how the state handles a situation where an elector lives in an area with two school districts, Mr. Hurst explained that school elections have an entirely different set of rules and statutes and are conducted at different times. It would simplify things if Title 34 applied to all elections. The statewide voter registration system allows lists to be printed by precinct or by school district. Mr. Hurst also explained that the requirement for challengers and watchers to wear name tags is now found on Page 1.

**MOTION:** **Representative Ellsworth** moved to introduce **RS 15615** for printing. The motion carried by voice vote.

**RS 15736** **Mr. William A. von Tagen**, representing the Attorney General's Office, AARP, and the Secretary of State's Office, presented **RS 15736**. He explained that a health care directive includes an individual's living will and durable power of attorney. Problems are created when health emergencies occur and a person doesn't have copies of these documents with them or loved ones aren't sure what is in the directives. This legislation addresses a portion of that problem.

Page 10, Line 40 creates the health care directives registry. The directory can be accessed online and will be housed in a secure database. The use of the registry is entirely voluntary and no one is required to register their documents. The validity of the documents is not affected whether they are registered or not, it only makes them more accessible in time of emergency.

There is no impact to the general fund. The Secretary of State is authorized to charge a fee of up to \$10 for registration of a living will and durable power of attorney. No filing fee is charged to remove these documents from the registry.

This legislation also amends the Public Records Act to ensure that information in the registry and documents contained within the registry are not subject to public records requests.

**MOTION:** **Representative Smylie** moved to introduce **RS 15736** for printing. The motion carried by voice vote.

**RS 15531** **Mr. William A. von Tagen**, representing the Attorney General's Office, introduced **RS 15531**, pointing out that this legislation is the result of a joint effort between the Attorney General's Office and the Secretary of State's Office. This legislation clarifies the remedies available when frivolous liens that are brought against federal, state, and local employees while they are carrying out their duties. This legislation expands the penalty provision to allow the imposition of the penalty to frivolous lien documents filed with the Secretary of State and to frivolous lien documents that purport to create a lien against personal property.

The crux of the legislation begins on Page 1, Line 40 and allows the official or employee to seek damages and attorney's fees.

Based on input from Mr. Chuck Goodenough, Secretary of State's Office, Mr. von Tagen proposed an amendment to the legislation which would

add the phrase “, *including a financing statement*” following the words “*any document*” on Page 1, Line 41.

**MOTION:** **Representative Ring** moved to introduce **RS 15531** for printing with the amendment to add the phrase “, *including a financing statement*” following the words “*any document*” on Page 1, Line 41. The motion carried by voice vote.

**RS 15640** **Representative Wendy Jaquet** introduced **RS 15640** to the Committee, saying this legislation addresses the spikes in gas prices. After Katrina it made sense that gas prices would increase, but gas prices in Idaho keep raising and at one time Idaho’s gas prices ranked fourth in the Nation. She said she looked at the statutes and decided the language could be strengthened.

This legislation clarifies that we are addressing actions of a wholesaler or retailer. It also provides a sidebar for the Governor’s declaration of a disaster by setting a 90-day time limit unless the Governor decides to extend the declaration. The penalty, which was last raised in 1973, is raised to \$10,000. A judge enacts the penalty.

The Automobile Association supports this legislation and will have a representative available at the hearing if the RS is printed.

Concerns were voiced about including wholesalers and retailers and whether legal counsel was given on the legislation. Representative Jaquet said that retailers are the victims and adding wholesalers takes the pressure off. She said the drafter of the legislation worked with Brett DeLange from the Attorney General’s Office.

**MOTION:** **Representative Smith** moved to introduce **RS 15640** for printing. The motion carried by voice vote.

**ADJOURN:** Chairman Deal reminded the Committee that Thursday’s meeting will start at 9:00 A.M. and there will be no meetings on Friday or Monday. There being no further business to come before the Committee, the meeting was adjourned at 9:29 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** January 26, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Black, Ellsworth, Loertscher

**GUESTS:** Please refer to the Committee sign-in sheet and see presenters highlighted below.

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. There were no minutes to be approved.

**RS 15457** **Representative Donna Boe** introduced **RS 15457**, legislation that provides for an emergency interim successor to a legislator by extending the provisions for putting an interim successor in place. The emergency interim successor will be the first person listed on the list of substitutes submitted by the elected legislator at the beginning of the legislator's term. The emergency interim successor will serve until a successor can be nominated by the county and is appointed by the Governor.

Representative Boe asked that on Line 10 of the legislation the word "*his*" be deleted and the words "*the legislator's*" be inserted before the word "*emergency*".

**MOTION:** **Representative Smith** moved to introduce **RS 15457** for printing with the following amendment to Line 10: delete the word "*his*" and insert the words "*the legislator's*" before the word "*emergency*". The motion carried by voice vote.

**RS 15345C1** **Representative George Eskridge** introduced **RS 15345C1**, legislation that would amend Idaho Code § 66-901 to allow spouses of veterans to be admitted into the state veterans home. In the past the veterans homes have been filled to capacity, but they are now experiencing vacancies. This legislation is being proposed because allowing spouses to enter the state veterans homes would benefit the spouse and also the homes.

Several Committee members asked about the fiscal impact of this legislation, and Representative Eskridge said there may be an impact but it is not certain how much. A portion of the money received for the veteran's care is paid by the federal government. The spouse's care would either be privately paid or paid by Medicaid. Attachment 1 was provided to show that the daily reimbursable costs per patient are \$193.10. Medicaid allows \$162.00 and the VA per diem is \$63.40, resulting in a positive cash flow of \$32.30 for veterans. Attachment 1 shows a negative cash flow for spouses of (\$31.10). It is not anticipated that there will be a negative impact because as the population increases the cost per patient day will decrease.

Several questions were asked about the intent of the language on Lines 15 and 18, "current spouse" and "former husband or wife of a veteran" and whether a former wife and a current wife could both be admitted. **Mr. Joseph Bleymaier**, Director, Veterans Services, clarified that Idaho is following the federal veterans rules that have been rewritten to include former spouses. It is possible that both a current spouse and former spouse could be admitted.

Another concern was voiced about spouses filling up the veterans homes and then there not being room for the veterans. Mr. Bleymaier emphasized that because the Division of Veterans Services will be writing the rules governing this section of Idaho Code, veterans would have first preference and spouse's admittance would be determined by vacancy. Right now in Idaho the Boise facility is full, but there are vacancies in Pocatello and Lewiston. They are aware of at least four spouses at both locations who would like to enter the facilities. One veteran declined entering one of the homes because his wife was not able to enter also.

Representative Miller suggested amending Line 20 of RS 15345C1 by deleting the word "he" and inserting the words "that person". Mr. Bleymaier agreed to the amendment.

**MOTION:** **Representative Miller** moved to introduce **RS 15345C1** for printing with the amendment to Line 20 deleting the word "he" and inserting the words "that person". The motion carried by voice vote.

**RS 15446** **Representative George Eskridge** introduced **RS 15446**, saying this is a cleanup bill to correct an oversight in the original legislation that transfers the powers and duties concerning services to veterans from the Department of Health and Welfare to the Division of Veterans Services. In the amended language, "real property" is emphasized to allow the administrator of the Division of Veterans Services to exercise control over such property.

**MOTION:** **Representative Smylie** moved to introduce **RS 15446** for printing. The motion carried by voice vote.

**H 417** **Representative Debbie Field (18)** introduced **H 417**. She explained that the Deputy Attorney General, Department of Administration, has some concerns about this bill. Therefore, she asked to have H 417 held. Representative Smylie clarified whether we should hold H 417 time certain or if it should be held in Committee. Representative Field indicated that she would be bringing a new RS.

**MOTION:** **Representative Smylie** made a motion to HOLD **H 417** in COMMITTEE. The motion carried by voice vote.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 9:25 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** January 31, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** None
- GUESTS:** Please refer to the Committee sign-in sheet and note the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The first order of business was to review the minutes of Wednesday, January 25, 2006 and Thursday, January 26, 2006.
- MOTION:** **Representative Smylie** moved to accept the minutes of Wednesday, January 25, 2006 as written. The motion carried by voice vote.
- MOTION:** **Representative Smith** moved to accept the minutes of 2006 and Thursday, January 26, 2006 as written. The motion carried by voice vote.
- Chairman Deal informed the Committee that **H 414** and **H 415** will be heard on February 8, 2006 to allow time for related legislation to be introduced and heard on the same day.
- PRESENTATION:** **Mr. Brent Reinke**, Director, Idaho Department of Juvenile Corrections and Chairman of the Idaho Criminal Justice Commission, spoke to the Committee about the Idaho Criminal Justice Commission that was created by Governor Executive Order No. 2005-06. The Commission has 23 members who will provide policy-level direction relating to the State's criminal justice system. Representatives from the executive, legislative, and judicial branches, associations, and local citizens serve on the Commission, allowing for communication and cooperation of various facets of the community of criminal justice professionals to promote efficiency and effectiveness.
- Funding for the Commission in 2006 will come from existing funds provided by the Idaho Department of Corrections, Idaho Department of Juvenile Corrections, the Idaho State Judiciary, and the Idaho State Police.
- The Governor in his State of the State Address gave an extensive review of criminal problems facing Idaho. By mid-February the House should be seeing legislation coming from the Senate to address gangs and set penalties for gang activities. Chief Justice Schroeder's comments right after the State of the State were that "...The Governor's Criminal Justice

commission has waded into the most difficult current problems affecting public safety and the criminal justice system..."

The Commission will be focusing on four core areas of concern:  
Sex Offenders – The goal is to provide a balanced approach to improving the sex offender situation through the following: (1) stop returning high-risk offenders to the community without front-end and back-end assessment, treatment and supervision; (2) maintain an active assessment and treatment program across the continuum; (3) improve public awareness; (4) implement effective system management, including cross-state communications and collaboration; and (5) improve the identification, apprehension and prosecution of sex offenders.

Methamphetamine – The goal is to effectively reduce the use and trafficking of methamphetamine in Idaho through prevention, education, treatment, enforcement, and reducing the number of victims.

Gangs – The goal is to effectively reduce gang activity in Idaho through three general areas of focus: (1) education/awareness; (2) prevention/intervention/diversion; and (3) suppression/enforcement.

Prison Population Growth – The goal is to manage the prison population growth through a "best practices" approach by: (1) providing adequate prison and community corrections capacity – both beds and services; (2) providing research-based treatment, based on standardized assessment, across the continuum of care; (3) funding and completing a master facility development/construction plan; and (4) increasing integration within the prison correctional system and related services.

The Commission plans to meet six times in 2006 to continue working on the four core areas. The Commission will begin the review of other interrelated criminal justice issues while keeping a close eye on the core areas.

Chairman Deal commented on a radio interview with a gang leader this morning. This person anticipates that the gang activities will increase because of the turf wars going on in various sections of Nampa. When asked if the proposed legislation will help suppress gang activity, he said no it will make it worse. Mr. Reinke responded by saying that Arizona and Texas are experiencing severe gang wars between the Salvadorian mafia and the Mexican mafia. Idaho is seeing a significant influx of mafia members. Idaho can try and find the ring leaders and lock them up in federal prisons, enhance the penalties, and drive them out of our communities. This will be a long-term effort to keep the quality of life in Idaho. There is a direct connection between Meth and gangs.

A Committee member voiced a concern about having interim committees and commissions, but not seeing anyone taking action in the schools to educate the kids about the dangers of Meth. This kind of education needs to start in middle school. Mr. Reinke said this has to be a joint effort in the community and people and families have to get involved with the kids. The majority of services for kids are county based. Meth is the cause in 80% of child abuse cases.



Another member pointed out that many times in the schools the drug campaign is combined with education on smoking, use of marijuana and then "oh by the way" Meth is bad.

Mr. Reinke said specific ways Idaho is addressing the issues are through the drug courts, mental health courts, community treatment centers, and community corrections. On the juvenile side the services developed are keeping the population in these facilities flat.

It was asked how much of the gang activity centers around drugs and are drugs being manufactured in Idaho? Mr. Reinke said there are lots of numbers being thrown out on the correlation between the two, indicating about a 90 - 94% correlation. Idaho has seen a significant reduction in Meth labs and most of the drugs are coming in from Mexico.

There being no further questions, Chairman Deal thanked Mr. Reinke for his presentation.

## **RS 15792**

**Mr. Bill Roden**, representing the Idaho Business Review, introduced RS 15792, a friend from last year. He said this legislation is new, different and can be embraced by all. Last session it was everyone's understanding that the industry would get together and work out the issues surrounding publication of legal notices. The Idaho Allied Daily's lobbyist, Mr. Eiguren, resigned. A November meeting was held to discuss the matter with the new lobbyist but nothing came out of that meeting.

This legislation amends section 60-106, Idaho Code, relating to the qualification of newspapers to print legal notices. The underlined text on Page 1, Lines 21-33 was already included at the end of this section and is being moved up front.

In 1994, at the request of some newspapers in the state, the statute was amended to provide that the quoted phrase meant, with reference to publications by governmental entities, that the newspaper must be the newspaper having the largest circulation in the governmental entity causing the publication to be made. It is believed that Idaho and Kentucky are the only states having such a requirement. Legislative history of the 1994 amendment indicates that the requirement was intended to apply only to government entities, not private legal notices.

This legislation addresses the issue of providing the broadest circulation of legal notices and removes the requirement that notices be published in the newspaper having the largest circulation unless the statute or a court order requires the notice be published in such a paper.

Questions were raised about how one would quantify a numerically substantial and geographically widespread circulation, and if a numerical value can be attached. Mr. Roden said this is the language is used in other states. It is impossible to attach a numerical value because of the various types of publications, i.e. county notices must be published in the newspaper with the largest circulation, courts require publishing in the newspaper giving greatest notice, municipalities are required to designate an official newspaper. Mr. Roden stated he feels there are enough safeguards built in and this is a fair way to do this without placing it in an obscure section of code.

**MOTION:** **Representative Smylie** moved to introduce **RS 15792** for printing. The motion carried by voice vote.

**H 413** **Mr. Mike Nugent**, Legislative Services, introduced **H 413**, legislation that makes various codifier corrections to the Idaho Code. Each legislative session, multiple amendments to a single code section, chapter or title are frequently passed. Occasionally, these multiple amendments result in conflicting numbering of sections and subsections. In addition, separate sections of code contain citations to sections or subsections which contain conflicting numbering due to multiple amendments.

Some of the changes this legislation addresses deal with renumbering the chapter on the Idaho Liquefied Petroleum Gas Public Safety Act, the Public Records Act, and wrong citations in subsections and subparts.

**MOTION:** **Representative Ellsworth** made a motion to send **H 413** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Bilbao**, freshman member of the Committee, will sponsor **H 413** on the floor.

**ADJOURN:** Chairman Deal reminded the Committee that they will be meeting in the Gold Room on Wednesday and Thursday at 8:00 A.M. and there will be no meeting on Friday. There being no further business to come before the Committee, the meeting was adjourned at 9:50 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### **HOUSE STATE AFFAIRS COMMITTEE** **Joint Meeting with the Senate State Affairs Committee**

**DATE:** February 1, 2006

**TIME:** 8:00 A.M.

**PLACE:** Gold Room

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth

**GUESTS:** Mr. Mark Hanneman, SCIO, US Department of Energy, Mr. Jack Wade, Counterintelligence, INL

Chairman Deal called the joint meeting of the House and Senate State Affairs Committees to order at 8:05 a.m. with a quorum of both committees being present.

**PRESENTATION: Terrorism 101: The Threat We Face**

Chairman Deal introduced Mr. Mark Hanneman, SCIO, US Department of Energy, Office of Counterintelligence, Richland, Washington. Mr. Hanneman's office provides CI support to DOE and contractor organizations in the Pacific Northwest and Hawaii. Mark has 30 years experience conducting felony investigations and counterintelligence operations throughout the world.

Before Mr. Hanneman began his presentation, he introduced Mr. Jack Wade, his counterpart at INL.

Mr. Hanneman explained the concept of terrorism and how difficult it is for American's to comprehend just how dangerous and ruthless terrorists are. They believe they have the right to kill millions, and they cannot be reasoned with. He defined terrorism as a tactic to get something changed and the secret ingredient is fear.

A terrorist operation will begin with the intelligence gathering stage when they are staking out their target, videotaping the area, and monitoring security. They will practice the attack, making adjustments, and then carry out the actual attack. He urged the audience to be observant and if they see something suspicious to report it, giving full details/descriptions.

The root cause of terrorism is religious extremism. These extremist are saying do it our way or no way. They believe the west is poisoning them. The way they win the war is by instilling fear and breaking the spirit. The men brainwash very young men who are told if they are a martyr they will go to heaven and their families will be taken care of. The religion of Islam is not the problem.

Usama Bin Laden was a well educated man who graduated from King Abdul-Aziz University in Civil Engineering. His family owned a large construction company and at age 10 he inherited \$80 million.

The significance of al Qaida is that they have brought different groups/factions together to facilitate terrorism. In 1996 al Qaida paid millions to start training camps in Afghanistan. Amazing cave complexes have been developed with electricity, water and other conveniences.

Mr. Hanneman pointed out that foreign cells, sleeper cells, and American sympathizers are our greatest threats. The American sympathizers are well educated individuals. Recruitment continues and web sites are used extensively. The members were warned not to sign in on these sites.

Mr. Hanneman mentioned two web sites that would provide additional information: [www.aclu.com](http://www.aclu.com) and the Department of Justice web site. In response to questions, he said Al Quida members are paid and families of suicide bombers are financially cared for. Counterintelligence employees try to do their best to protect people, but they need citizens to report suspicious activities. He suggested talking with the local task force on Homeland Security regarding any terror cells that might be in or near Idaho.

**ADJOURN:**

Chairman Deal thanked Mr. Hanneman for coming to Idaho for this presentation and for what he does for the protection of all of us. There being no other business to come before the joint committees, the meeting was adjourned at 9:30 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 2, 2006

**TIME:** 8:00 A.M.

**PLACE:** Gold Room

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Black

**GUESTS:** Please refer to the attached Committee sign-in sheet and see the names of those testifying highlighted below.

Chairman Deal called the meeting to order at 8:04 A.M. with a quorum being present. The first order of business was to approve the minutes of Tuesday, January 31, 2006 and Wednesday, February 1, 2006.

**MOTION:** **Representative Pasley-Stuart** moved to approve the minutes of January 31, 2006 as printed. The motion carried by voice vote.

**MOTION:** **Representative Stevenson** moved to accept the minutes of February 1, 2006 as written. The motion carried by voice vote.

Before the testimony on HJR2 began, Chairman Deal went over the ground rules for this hearing. He explained that the testimony would be limited to three minutes. He asked that (1) testimony be specific to the legislation; (2) that those testifying be respectful in their testimony; and (3) if their testimony is repetitive, state they are pro or con and agree with previous testimony.

**HJR 2** **Representative Lawrence Denney**, introduced **HJR 2**, legislation that proposes an amendment to the Idaho Constitution defining marriage. It states that a marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in this state.

Why are we bringing this amendment?

■ Article III, Section 24 of the Idaho constitution states "*The first concern of all good government is the virtue and sobriety of the people, and the purity of the home.*" This legislation should further well directed efforts for the promotion of temperance and morality.

■ Some feel this amendment isn't needed because we already have a law on the books prohibiting same sex marriage. But there are ongoing challenges to laws like ours all over the country with a current challenge going on in Washington. Given the unsettled status of the law, a Constitutional amendment would strengthen the public policies concerning marriage that are currently articulated in Idaho Code – and likely preclude a state constitutional challenge.

This is a policy question, a very important one, about one of the very

core values of our society. No matter how you feel about marriage, we should all be able to agree that the people of Idaho should be included in this decision – a decision so fundamental to society. This amendment will allow the people of this state to express their opinion on this issue.

Eighteen states have already passed similar amendments and several more will have the issue on the ballot this November. It is time for Idaho to act.

*A brief summary of the testimony given at the hearing on HJR2 is presented below. Written testimony submitted will be made part of the official record kept in the Legislative Library minutes and in the House State Affairs Secretary's minutes.*

- PRO** **Julie Lynde**, representing Cornerstone Institute of Idaho, spoke in favor of HJR2. Marriage is foundational – the cornerstone of who we as a civilization. Common sense reasons for the state to strengthen and protect marriage are (1) one of the greatest benefits to society is that it shelters and nurtures the next generation and (2) there is an impressive body of evidence that children with both a mother and a father do better academically, emotionally, and behaviorally. De-constructing marriage to include alternatives is just one more social experiment placed squarely on the backs of children. See Attachment 1 for complete written testimony.
- CON** **Representative Nicole LeFavour**, Boise, spoke in opposition to HJR2. She reminded the members that those in the legislature have gay family members, neighbors, co-workers, close friends, but this is not talked about. People in our communities are like that. She asked that they consider the question that voters will be asked on the November ballot. She asked whether they are certain about the intent and effect of this amendment, certain enough to write into our Constitution those words. See Attachment 2 for complete written testimony.
- CON** **Leslie Goddard**, Director of the Idaho Human Rights Commission, spoke in opposition to HJR 2 because she feels this resolution is clearly designed to prohibit same-sex civil unions. Gays and lesbians will be denied privileges that heterosexuals take for granted: public health insurance for partners, ability to inherit an estate without a will, or having a hospital recognize you as “next of kin” in a medical emergency. It took Idaho 90 years to remove discriminatory language against Mormons and people of Chinese descent. Costs of the process will be great, including not only money, but human energy and dignity as well. See Attachment 3 for complete written testimony.
- CON** **Tony Edmondson**, representing himself, spoke in opposition to HJR2. He discussed how he and his partner of 35 years have cared for elderly parents and sisters. They have volunteered countless hours of public service, have been elected to city and county governments, and have served on various local and statewide boards and commissions. He stressed he is not a threat and is testifying because there are those who feel he threatens the sanctity of marriage and family. See Attachment 4 for complete written testimony.
- CON** **Rabbi Dan Fink**, Ahavath Beth Israel Synagogue, spoke in opposition to HJR 2. This has become an offensive debate. Somehow there is a belief that there is not enough to go around. There is enough love to go around for

gay and straight people. Marriage as we now know it is not a biblical institution. Until recently in western world marriage was about business. If tradition mandates anything, it is expanding our notion of marriage to include loving adults who have been excluded from it. Urged that this bill be opposed.

- CON** **Paul Rolig**, President of Humanists of Idaho and representing their members throughout the state, spoke in opposition to HJR 2. They oppose this bill because they support freedom of religion. This bill presents a very narrow view of religion. Government must restrict its governance to the secular aspects of marriage and not establish religious doctrine as law. See Attachment 5 for complete written testimony.
- PRO** **Bryan Fischer**, Executive Director of the Idaho Values Alliance, spoke in favor of HJR 2. He addressed three issues: (1) some argue that we don't need this amendment because we have a conservative judiciary in Idaho, yet our state supreme court changes with every election; (2) some say that allowing civil unions will not weaken the institution of marriage, but legitimizing marriage look-a-likes will weaken marriage; and (3) this amendment will not take away a single right – it will simply preserve the institution of natural marriage. See Attachment 6 for complete testimony.
- CON** **Amy Herzfeld**, Executive Director of the Idaho Human Rights Education Center, spoke in opposition to HJR 2. This legislation brings no value to our state. Idaho's constitution is designed to protect our liberties, not deny fundamental rights and human dignity for the political benefit of a few. Americans are committed to values of equality and fairness. This legislation is a misguided attempt to codify discrimination. She urged that the members reflect on the profound human rights implications of legislation and take action to protect all Idaho families. See Attachment 7 for complete written testimony.
- CON** **Rev. Dr. Susan Watterson**, citizen and Senior Pastor of the First Congregational United Church of Christ, Boise, spoke in opposition to HJR 2. United Church of Christ pastors have been performing services of union for same-sex couples since the 1980s. There are same-sex couples in their congregations who have been in faithful relationships and are raising children and grandchildren in loving, stable homes. Lesbian, gay, bisexual, and transgender persons are not a threat to the institution of marriage. See Attachment 8 for complete written testimony.
- PRO** **Clayton Cramer**, representing himself, spoke in favor of HJR 2. He said he moved to Boise from San Francisco in 2001. You've heard that the claim of banning same-sex marriage is similar to laws banning interracial marriage – this is wrong for various reasons. Laws to ban interracial marriage was not universal to the US. He is not aware of any society anywhere until recently that has recognized same-sex marriage. Prefers we do not define marriage in the Constitution because it limits further changes, but prefers that the legislation would limit the authority of the judiciary to alter the definition – keep the powers where they belong with the Legislators and the people.
- CON** **Gwendolyn Kimball**, representing herself, spoke in opposition to HJR 2 because she feels this legislation discriminates against one-tenth of our population: our gay, lesbian, transgender and bisexual community. Her

daughter Cynthia came out when she was 29. Cynthia is the best daughter, friend, professor, aunt, sister, niece, and partner and her parents will advocate for her and others who are born to be different in their sexual orientation. See Attachment 9 for complete written testimony.

- CON**                    **Andrea Shipley**, Board Member, Your Family, Friends and Neighbors, an organization dedicated to issues affecting the lesbian, gay, bisexual and transgender community. She spoke in opposition to HJR 2, saying never before in our state's history have we amended our sacred constitution to exclude people from legal protections. This marriage amendment also affects straight families opting not to marry. They will face all the legal battles and expenses that same-sex couples do. It is fiscally irresponsible to let this bill go any further. See Attachment 10 for complete written testimony.
- PRO**                    **George Detweiler**, Attorney from Twin Falls representing himself, spoke in favor of HJR 2. He stated that this amendment is necessary because of national movements by such groups as NAMBLA (North American Man-Boy Love Association, and others), to use the Full Faith and Credit clause of the US Constitution (Article 4, Section 1) as a means to force all states to recognize non-traditional unions (same sex, multiple partner, adult-child) performed in Massachusetts and Vermont, which already allow same-sex marriages. Signed petitions from citizens in the Magic Valley who are in favor of this legislation are included in Attachment 11.
- CON**                    **Julianne Russell**, representing herself and her family, spoke in opposition to HJR 2. Mrs. Russell was accompanied by her husband and her four children and said she was wearing the hats of a teacher, a wife and a mother. She said each of these roles has a different perspective and yet from each perspective she concluded that this legislation is **WRONG**. As a teacher, as wife and as a mother she asked that the members rethink their position on this piece of legislation that she finds to be unnecessary, exclusionary and discriminatory. See Attachment 12 for complete written testimony.
- CON**                    **Delmar Stone**, resident from Nampa, licensed master social worker, and the Lobbyist for the Idaho Chapter of the National Association of Social Workers, spoke in opposition to HJR 2. Scientific literature strongly indicates that sexual orientation is far from being a voluntary choice. Research also undermines negative assumptions about gay men and lesbians as parents. The National Association of Social Workers calls on the Legislators not to pass legislation that divides our state and promotes bigotry. See Attachment 13 for complete written testimony.
- PRO**                    **Greg Fadness**, Pastor of Lighthouse Congregation in Twin Falls and father of five, spoke in favor of HJR 2. He said he is very concerned about the nation we are passing down to our children. Understands the heartfelt arguments that come from the gay and lesbian communities. God does loves all sinners. There seems to be a concerted effort to cut loose from our moorings, its foundation, creating immoral chaos. There is one race, the human race. By adopting this amendment, Idaho can set a good example, not of intolerance, but strengthen that which is good by passing this amendment.



- CON** **Alex Daw**, representing BSU BGLAD and its sister organizations throughout Idaho, spoke in opposition to HJR 2. These organizations have described this legislation as an answer to a non-existent problem. They agree that marriage is a sacred institution and disagree that allowing gays and lesbians to marry will degrade that institution. Our nations founding fathers were very smart to set up an institution to protect the minority – the judiciary. It is unwise to ban the third branch of government from having a say in this matter, and this amendment would do just that. Many fellow students have come up to say what a bad idea this is. Stand up for the rights of the minority.
- CON** **Monica Hopkins**, representing herself, spoke in opposition to HJR 2. She stated that Idaho’s adoption of the Defense of Marriage Act in 1996 makes this amendment extreme and unnecessary. Each church, synagogue and house of worship is still able to make decisions according to their traditions and beliefs. This is what a constitution is designed to do, protect people from discrimination. Her and her partner respect the right of religious institutions to honor their traditions and beliefs. See Attachment 14 for complete written testimony
- CON** **Rev. Ed Keener**, representing The Interfaith Alliance of Idaho and Parents & Friends of Lesbian and Gay persons, spoke in opposition to HJR 2, saying these organizations see no positive benefit for the citizens of Idaho in defining marriage in our Constitution. Rather than seeing homosexuality as a threat, they see the opposite. They are our mentors, civic leaders, teachers and neighbors. See Attachment 15 for complete written testimony.
- CON** **Dr. James Smith**, representing himself, spoke in opposition of HJR 2. He said he is a volunteer for Your Family, Friends, and Neighbors, an organization that represents over 100,000 Idahoans that oppose this legislation and will be harmed by its addition to our state constitution. He talked about his ancestors seeking freedom nearly 400 years ago, and he feels it is inappropriate to modify our state constitution to limit freedom. See Attachment 16 for complete written testimony.
- CON** **Marty Durand**, Legislative Counsel for the American Civil Liberties Union of Idaho spoke in opposition to HJR 2, stating that ACLU of Idaho urges them to oppose amending the Constitution to deprive committed couples in Idaho, including lesbian and gay couples, of any legal protection of their lifelong relationships. Such an amendment is unnecessary and fundamentally unfair. Fundamental unfairness of the proposed amendment is of concern beyond the lesbian and gay community. Nearly half of the Fortune 500 companies offer domestic partner benefits. See Attachment 17 for complete written testimony.
- PRO** **Elysse Barrett**, representing America’s Renewal, spoke in support of HJR 2. Family goes back three generations in Idaho. She said she is passionate about preserving our state and is concerned about our society her younger siblings are growing up in. She represents her generation and feels they need to stand and make their voice be heard. Truth can be discussed and debated, but truth never changes remains the same. Marriage is God given and the core of social relationships and needs to be preserved and protected. Idaho has always protected traditional marriage. Have opportunity to preserve and protect traditional marriage.

- CON** **Kathy Haley**, Lobbyist, representing Idaho Women's Network, spoke in opposition to HJR 2. She believes HJR 2 would write discrimination into our Idaho constitution which was written to guarantee that all citizens are afforded the same protections, and our democratic process is in place to protect the minority from the majority in case of discrimination. She feels this is a civil rights issue. Denying some couples any recognition of their committed relationships takes away legal access to rights inherent to married couples. See Attachment 18 for complete written testimony.
- CON** **Jim East**, representing himself, spoke in opposition to HJR 2, saying this amendment could be used to prevent him and his partner from ever having any kind of recognition from the state. He was concerned about having to lie to see his partner in a hospital, about health insurance, and about more children being raised in homes where their parents do not love each other if this amendment passes. See Attachment 19 for complete written testimony.
- PRO** **Mike Duff**, President of United Families of Idaho, spoke in favor of HJR 2, stating that the institution of marriage was not created by government and it must not be redefined by unelected, activist courts "legislating" outside the bounds of the Constitutional balance of powers. The courts will redefine marriage as they have in other states. Idahoans understand that the most profound and emphatic legal and moral statement a free people can make is to place it in their constitution. See Attachment 20 for complete written testimony.
- CON** **Nik Dumas**, representing himself and Kevin Skinner who could not be here, declared his fierce opposition to HJR 2. Pains him to see this legislation being considered. He cited the cost of this legislation and feels this legislation limits individual rights and it will hurt Idaho's economy and businesses, in the long run. Article 1, Section 1 of the state Constitution says all men by nature are free and equal regardless of who they are. Litigation from this legislation may take years. Religious beliefs are not being threatened. He urged the members to think of addressing other more pressing issues in the state.
- PRO** **Eileen Banholzer**, concerned citizen representing herself, spoke in favor of HJR 2. She said she traveled this morning to let them know there are people who are concerned about marriage. Union of a man and woman will produce our next generation of children. She asked for their support to do whatever they can to strengthen marriage. She said she polled her family and neighbors who are also concerned about strengthening marriage..
- PRO** **Robert Brown**, citizen representing many family and friends, spoke in favor of HJR 2. Has learned a lot from those who do oppose this movement .are against this amendment. If you are against the amendment then what definition will we have in its place. Where do we draw the line. What is proposed is not a change, but a further anchoring of what is in place. It is the Legislator's sworn duty to preserve the purity of the home. Youth are more likely to turn to crime when not raised in a home with a mother and father. Strong homes create strong communities. The final decision will be with the people, not the Legislature if this amendment passes. Consideration of the family should be the center of all legislation.

- PRO** **Allen Gorin**, Idaho representative of *Toward Tradition*: a national, public policy coalition of Jews and Christians who work together where common purpose exists. He focused on three main points raised by those opposing last year's amendment (1) discrimination, (2) compassion for gays, and (3) the need for a constitutional definition of marriage. He made an analogy of insuring a house and insuring what's inside the insured house – the traditional family unit, saying he views this constitutional amendment as that added level of insurance. See Attachment 21 for complete written testimony.
- PRO** **Steven Thayne**, citizen representing himself, spoke in favor of HJR 2 for two reasons. First, public policy such as marriage should be made in the legislative branch of government, where the public and elected officials can have an open debate about the pros and cons of any proposed legislation. Second, what is wrong with supporting traditional marriage? Many of our most vexing social problems are a direct result of family breakdown. This amendment simply codifies the belief in the ideal family. See Attachment 22 for complete written testimony.
- PRO** **Katherine Frazier**, 40-year citizen of Boise, spoke in favor of HJR 2, stating this is a moral issue and she is offended by those who have turned this around and claim we are immoral. Her husband, Dr. George Frazier, shares her belief that the proper definition of a legal union is between a man and a woman. She is sorry the divorce laws have been cheapened. This issue needs to be voted on. She wishes no evil to anyone.
- PRO** **Janette Kurz**, citizen representing herself, spoke in favor of HJR 2. She and her husband Robert have been happily married for 12 years. She was raised in Bulgaria which was part of the Communist regime and her father spent 10 years in a Communist prison because he upheld social values. The most valued part of the Bulgarian society is the sacred covenant of marriage between one man and one woman and is considered the only sacred union in Bulgaria. Future societies depend on the decision to protect marriage. See Attachment 23 for complete written testimony.
- CON** **Donna Yule**, citizen representing herself, spoke in opposition to HJR 2. She said she wants to speak up for her son. She said she is like all parents who want their children to be happy and have good jobs. Her youngest son is gay and in a long-term relationship. She feels the dumbest argument is that same-sex marriage poses a threat to traditional marriage.
- PRO** **Britton Holdaway**, citizen representing himself, spoke in support of HJR 2, stating that the issue is not about equal rights, unfair treatment, or second-class citizenship. It is about whether or not we want unelected officials violating the good faith of this state's citizens by legislating humanistic morality from the bench. Voting for this amendment does not advocate hate or disenfranchise homosexuals or write discrimination into the Constitution. It reaffirms the sanctity and importance of traditional family. See Attachment 24 for complete written testimony.
- PRO** **Chris Harriman**, Twin Falls, spoke in favor of HJR 2, stating he is grateful to be able to add his voice in favor of this legislation. Judicial activism threatens marriage and placing this amendment on the ballot allows citizens to codify marriage as a legal union between one man and one woman. It is not likely that Washington will address this issue so states need to continue to take action. He said he comments are not meant to be mean spirited.

**PRO**

**Pat Burnam**, spoke in favor of HJR 2 on behalf of the Idaho Eagle Forum. She urged that this measure be placed on the ballot to allow the people to exercise their voting rights. Marriage is the oldest social institution know to mankind and the greatest threat to our nation is the demise of marriage and the family. The Idaho Eagle Forum affirms that children need both a father and a mother in the home for optimal growth and development. Marriage between a man and a woman further undergirds the structure of society, culture and government. See Attachment 25 for complete written testimony.

The testimony being completed, Chairman Deal said he appreciated the high road taken during the testimony. Thirty-eight people testified. A short break was taken before concluded the hearing.

Chairman Deal called the meeting back to order and asked Representative Denney to give a brief summary of the legislation. Representative Denney stated this is a very fundamental societal question. This is not a policy change but a policy reinforcement. It does not take away current rights, but elevates the protection of marriage to the constitutional level.

**MOTION:**

**Representative Stevenson** made a motion to send HJR 2 to the floor with a DO PASS recommendation. He said he had heard a great deal of discussion about not having access to partners in hospitals and indicated that this issue needs to be addressed in that arena.

**ROLL CALL VOTE:**

A roll call vote was called for. The motion to send HJR 2 to the floor with a DO PASS recommendation passed by a 13 to 4 vote. Representatives Deal, Smylie, Stevenson, Ellsworth, Edumnsion, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, and Shepherd (2) voted "Aye" and Representatives Miller, Ring, Smith (30), and Pasley-Stuart voted "Nay". Representative Black was excused. The measure passed by more than a 2/3 vote and will therefore be sent to the floor with a DO PASS recommendation.

**ADJOURN:**

Chairman Deal thanked everyone for their testimony and for their courteousness to him. There being no further business to come before the Committee, the meeting was adjourned at 10:40 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 6, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representatives Edmunson, Anderson, and Andrus
- GUESTS:** Nick Baxter and Austin Gorringer, students from Bishop Kelly High School
- Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. There were no minutes to review.
- RS 15927** **Speaker Bruce Newcomb**, introduced **RS 15927**, explaining that this legislation replaces H 408. This legislation deals with the Kelo decision and exercising the power of eminent domain. Starting on Line 35 the three conditions that must be met before exercising the power of eminent domain are described. These are the same conditions that were outlined in H 408. As in H 408, this legislation requires that each piece of property within the region must be examined. This legislation does not create urban renewal districts
- MOTION:** **Representative Ellsworth** moved to introduce **RS 15927** for printing. The motion carried by voice vote.
- Vice Chairman Smylie assumed the chair so Chairman Deal could go to the Revenue and Taxation Committee to present legislation.
- RS 15829C2** **Mr. Tim Hurst**, Office of the Secretary of State, explained that **RS 15829C2** replaces H 416. The original intent of this legislation was to track the federal regulations that clarify what is a proper use of campaign contributions. After printing H 416, a federal amendment was discovered that contained the language that has been added in subparagraphs (e) and (f) of this legislation. Several questions were raised by members of this Committee regarding clothing purchases and automobile expenses. Language was added to address these concerns.
- MOTION:** **Representative Pasley-Stuart** moved to introduce **RS 15829C2** for printing. The motion carried by voice vote.
- RS 15862** **RS 15862** was presented by **Mr. Rich Hahn**, representing Idaho Power, an investor owned utility company that serves 24 counties in Idaho. This legislation would allow public utilities to manage property not currently used for utilities. It will (1) help ensure the development of energy and other utility facilities to meet the growing needs of Idaho citizens at a reasonable cost; and (2) provide the tools for the PUC, upon its explicit

finding that the public interest will be served, to grant a utility a return on construction work in progress or property held for future use. The language starting on Line 33 ensures that if the PUC determines that property being held for future use is not needed, "any gain or loss occurring from the sale or other disposition of the property will be included in the utility's rates."

Idaho Power is required to have a 10-year Integrated Resource Plan that is reviewed every two years. This legislation fits into this planning process. Idaho Power is also engaged in a Community Advisory Group that helps identify where future sites will be located to allow Idaho Power to keep ahead of construction in the Treasure Valley. Purchasing land for future sites in advance will cut costs and makes sense.

**MOTION:** **Representative Ring** moved to introduce **RS 15862** for printing. The motion carried by voice vote.

**H 435** **Mr. Ken Winkler**, representing the Liquor Dispensary, spoke in favor of **H 435**. He explained that non-alcoholic products such as mixers have been sold since 1972. These products account for less than \$750,000. These products are sold in the state liquor stores and contract stores for customer convenience. This bill clarifies that the sales tax on all items sold through the Dispensary remains in the Liquor Fund for distribution, including sales tax on non-alcohol merchandise. Also, the surcharge applicable to sales of alcoholic liquors by the Dispensary would apply equally to non-alcohol merchandise.

A Committee member voiced a concern about the tax dollars going into the Liquor Fund rather than to the cities and counties. Mr. Winkler explained that a portion of the funds in the Liquor Fund are distributed to the cities and counties.

**MOTION:** **Representative Snodgrass** moved to send **H 435** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Snodgrass** will sponsor **H 435** on the floor.

**H 436** **Representative Stevenson** spoke in favor of **H 436**. The purpose of this legislation is to bring the bonding requirements for Cemetery Districts in line with other bonding districts and allow the Board of Directors to set the bonding amount. The Cemetery Districts are the only districts that are currently required to have a bond 25% greater than the amount of money coming into the treasurer's hands.

**MOTION:** **Representative Smith** made a motion to send **H 436** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Stevenson** will sponsor **H 436** on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 9:35 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 7, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Anderson
- GUESTS:** Please refer to the Committee sign-in sheet and note the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. No minutes were reviewed.
- RS 15754** **Representative Darrell Bolz** introduced **RS 15754**, explaining that he worked with Dan Steckel, Deputy Attorney General, Department of Human Resources on this legislation. This legislation will prevent an applicant's name from being disclosed unless written permission is given by the applicant. In Section 9-337, Lines 12-14 an applicant is defined as meaning "any person formally seeking a paid or volunteer position with a public agency". Under the current statute if you are working for a department and apply for another position, this information is available under the Public Records Act. This can cause unnecessary harm or embarrassment to an unsuccessful applicant.
- MOTION:** **Representative Ring** moved to introduce **RS 15754** for printing. The motion carried by voice vote.
- RS 15871** **Representative Darrell Bolz** introduced **RS 15871**, stating that when the Veteran's preference legislation was brought forth last year, people felt that the entire section of code needed to be looked at. He said he worked with the Department of Human Resources and Veterans Services to look at what is currently in statute and update the code to follow federal legislation on Veteran's preference.
- MOTION:** **Representative Stevenson** moved to introduce **RS 15871** for printing. The motion carried by voice vote.
- RS 15701** **Representative Tom Loertscher** introduced **RS 15701**. This legislation would change the distribution formula of Forest Reserve Funds to school districts that have large areas of Forest Service lands within their borders. Currently, 70% of the funds go to the county to maintain roads within the boundaries. The other 30% goes to school districts in the county based on average daily attendance (ADA). There are situations where districts have large ADAs but no Forest Service land within their boundaries. This legislation proposes to have 15% go to school districts within the county

in proportion to the number of pupils in average daily attendance and 15% go to the various school districts in the county in proportion to the amount of US Forest Service land the school district contains. This legislation will affect those districts that have no forest service land within their boundaries.

The question was asked if this has anything to do with the Craig Wyden Act? Representative Loertscher said he does not know. It was pointed out that it is important to know if these are actual forest monies versus forest operations money, and to know the amount of gains and losses resulting from this change. Representative Loertscher said he would research this.

**MOTION:** **Representative Bilbao** moved to introduce **RS 15701** for printing. The motion carried by voice vote.

**RS 15897** **Representative Tom Loertscher** introduced **RS 15897**, explaining that with each redistricting effort in Idaho it puts a number of counties together where there is no central committee meeting area. This legislation would allow legislative district central committees to meet in a contiguous county to the district to accommodate the requirement for a central location.

**MOTION:** **Representative Smylie** moved to introduce **RS 15897** for printing. The motion carried by voice vote.

**H 453** **Mr. Bob Corbell**, representing the Grape Growers and Wine Producers Commission, spoke in favor of **H 453**. This legislation allows growers or wineries to opt out of participating in the activities of the Commission. This change will give the Grape Growers and Wine Producers Commission the same capability that other agricultural commissions now have. There are lots of hobby growers who make wine. These growers can opt out or continue to participate in research and other activities. The legislation requires that they write an annually letter requesting to opt out. Current fees are \$5 per acre for growers and \$100 per winery.

**MOTION:** **Representative Ellsworth** made a motion to send **H 453** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Hart** will sponsor **H 453** on the floor.

**H 454** **Mr. Roger Seiber**, representing the Wine Institute, presented **H 454**. This legislation is in response to the May 2005 US Supreme Court decision in Granholm v. Heald that requires the equal treatment of in-state and out-of-state wineries in the direct shipment of wine to consumers. The decision indicates that Idaho's reciprocal shipping law is most likely unconstitutional because it creates different rules for wineries based on their location.

To comply with this decision, avoid litigation, and ensure continued direct-to-consumer wine shipments, H 454 will create a permit system to replace Idaho's winery reciprocity statute. The bill allows limited, regulated and tax-paid shipping. This system would allow for collection of both sales and excise taxes that are not now being collected. It also establishes a fee to be paid by wineries that will be used to offset the administration of the program. This legislation is modeled after a National Conference of



State Legislators (NCSL) recommendation and is approved by all major wine associations.

This is a good approach because (1) it limits the number of cases to 24 per year that can be sold and shipped to any person 21 years or older for his or her personal use, not for resale; (2) it provides enforcement by requiring the filing of an application, a \$50 annual registration fee (if not currently registered with the director), an Idaho winery license number or true copy of its current alcoholic beverage license issued by another state, and registration with the state tax commission for payment of sales and use taxes and excise taxes on wine sold to residents of Idaho under the wine direct shipper permit; (3) it requires a signature from someone 21 years of age or older and the shipping container must be clearly labeled to indicate that the container contains alcoholic beverages; and (4) it provides for wineries to complete and submit an annual report. The Tax Commission and the Idaho State Police, Department of Alcohol Beverage Control share this information.

Mr. Seiber indicated that 15 states have this permit system in place and 11 more are going through the process. Washington and California have no case limits. He urged support of H 454 to ensure that Idaho residents can continue to receive wine directly from wineries in Idaho and elsewhere.

Mr. Ted Spangler, Idaho Tax Commission, clarified that unlike cigarettes, wine tax is not administered with a seal. It was also clarified that audits would be determined by reason to look more closely at an individual shipper and would be done under the direction of the Director, Idaho State Police Department.

**MOTION:**

**Representative Edmunson** moved to send **H 454** to the floor with a DO PASS recommendation.

**Mr. Bill Roden**, representing the Beer and Wine Distributors, stated he was not testifying against this legislation, but did have two concerns:

- (1) Relative to shipping 24 cases to one person at one time -- an enterprising student could purchase the 24 cases and sell to other underage students. He suggested an amendment to limit the shipments to two cases of wine as indicated on Page 2, Lines 38-44
- (2) Taxes should be paid on the same schedule that all other wine distributors follow. It was clarified that for tax purposes, the same rules would be applied to wine shippers as to other retailers -- monthly or quarterly if in good standing.

A discussion followed. One member asked if the amendment were put in place, would someone be able to order say 8 cases for a wedding or an event, and the answer was no. Several other members questioned why the number of cases was raised from 2 to 24 and voiced that they were in favor of limiting the number of cases shipped to two. Another question was voiced about whether there is a mechanism in place to ensure that resale doesn't occur.

Mr. Seiber explained that this legislation was developed based on what other states have done and most allow 24 cases to be shipped -- Washington and California have no limits. It is an issue of fairness to Idaho wineries to allow them to ship the same amounts that other states

do. Right now there is no mechanism in place to allow Idaho wineries to ship wine in-state. Regarding the issue of using the wine for resale, he said audits can be performed by the Division of Alcohol and Beverage Control and the State Tax Commission.

**Mr. Bob Corbell**, Grape Growers and Wine Producers Commission, spoke in favor of **H 454**. In the past, 23 states were involved in the reciprocal agreement and there was no tracking of wine coming in or taxes paid. He said this legislation is very important to Idaho wineries. This is extremely important to small Idaho wineries who currently have no retail outlet in Idaho – you don't find Idaho wines at the grocery store. Being able to ship wines is an important part of the business, and Idaho wines are becoming better recognized. He said he is not hung up on the 24 cases. Generally the requests are not for that large of an amount. He said this law is need to replace the reciprocal agreements.

**VOTE ON MOTION:**

A vote was called for on the previous motion to send **H 454** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Chairman Deal** will sponsor **H 454** on the floor.

**H 434**

**Mr. Karl Dreher**, Director, Department of Water Resources, spoke in support of **H 434**. He explained that this legislation is straight forward and resulted because of an incident occurring in 2003. The Board issued bonds to construct a project at the Dworshak Fish Hatchery. When they tried to refinance the bonded indebtedness at a better interest rate, the State Treasurer was prohibited from participating because of a 7-day limitation. This legislation strikes that limitation. This change will free up money for other projects.

**MOTION:**

**Representative Ring** moved to send **H 434** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Stevenson** will sponsor **H 434**.

**H 488**

**Representative Donna Boe**, spoke in favor of **H 488**. She explained the original legislation was written in 1999 when Representative Bieter was killed in an auto accident. If this had happened in a remote district, it may be difficult to get the county party together to nominate a successor. This legislation provides for an emergency interim successor and it does not interrupt the committee process. It was realized last year that the legislation needed to be expanded to provide provisions when a legislator resigns. Constituents can be denied a vote if a successor is not named immediately.

**MOTION:**

**Representative Ellsworth** moved to send **H 488** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Boe** will sponsor **H 488** on the floor.

**RS 15929**

**Representative George Eskridge**, introduced **RS 15929**, explaining that this legislation replaces RS 15371. When RS 15371 was introduced Committee members asked about the eligible spouse and how many spouses could be admitted to the Veterans home. RS 15929 addresses this issue by providing a new definition of "spouse" and "widow" or "widower" under a marriage recognized by title 32, Idaho Code.

**MOTION:** **Representative Smylie** moved to introduce **RS 15929** for printing. The motion carried by voice vote.

**H 477** **Representative George Eskridge**, introduced **H 477**, stating this legislation corrects an oversight. The legislation allows the Administrator, Division of Veterans Services to exercise their authority over property, real and personal.

**MOTION:** **Representative Ellsworth** moved to send **H 477** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Eskridge** will carry **H 477**.

**ADJOURN:** Chairman Deal advised the Committee that by the end of the week we will have printed all of the RSs and heard all the bills that were in Committee prior to this week. It looks like we will not be meeting on Friday. There being no further business to come before the Committee, the meeting was adjourned at 10:18 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 8, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** None

**GUESTS:** Students from Bishop Kelly High School. For others attending, please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The first order of business was to review the minutes of Thursday, February 2, 2006 and Monday, February 6, 2006.

**MOTION:** **Representative Pasley-Stuart** moved to approve the minutes of February 2, 2006 as printed. The motion carried by voice vote.

**MOTION:** **Representative Stevenson** moved to approve the minutes of February 6, 2006 with one corrections on Page 1. Chairman Deal went to the Revenue and Taxation Committee, not the Judiciary and Rules Committee. The correction was so noted and the motion carried by voice vote.

**RS 15918** **Representative Stevenson** introduced **RS 15918**, legislation relating to county-based intermodal commerce authorities. This legislation requires passage of a county ordinance by commissioners, after a public hearing, to exercise the powers county commissioners grant to intermodals. The amendment makes it clear that property held by an intermodal is public property and is tax exempt. This legislation clarifies requirements for intermodal commissioners to serve or be removed from office, and it further amends current code establishing proper authority for issuance of revenue bonds to support the intermodal commerce authority.

**MOTION:** **Representative Andrus** moved to introduce **RS 15918** for printing. The motion carried by voice vote.

Chairman Deal introduced **Larry Johnson** as the new Manager of Investments, Endowment Fund Investment Board. Mr. Johnson briefly explained that he will be introducing two pieces of legislation that were generated by the Endowment Fund Reform Review Task Force that was established by the Governor in September, 2005 at the request of the Land Board.

Mr. Johnson gave a brief overview of both pieces of legislation, saying the intent of the Code amended in 2004 remains valid, but the task force felt

they were ambiguous and complicated and risky in their future implementation. The legislation presented today makes technical adjustments, clarifies administration of the endowment funds, reduces the chance of shortfalls in endowment fund distributions, and reduces the likelihood of litigation to clarify meaning of existing statutes.

**RS 15838**      **Mr. Larry Johnson**, Manager of Investments, Endowment Fund Investment Board, introduced **RS 15838**. He explained that the technical adjustments to Idaho Code, 57-724A will delay implementation of a change in the definition of “earnings” by a year. RS 15838 also sets the triggering event for the change separately for each endowment fund.

**MOTION:**      **Representative Ellsworth** moved to introduce **RS 15838** for printing. The motion carried by voice vote.

**RS 15860**      **Mr. Larry Johnson**, Manager of Investments, Endowment Fund Investment Board, introduced **RS 15860**, legislation that makes technical adjustments to 57-724, Idaho Code. RS 15860 will clarify the calculation of gains and losses to the state’s endowment funds and clarify how and when losses to the Public School Endowment Fund must be made up by the state.

**MOTION:**      **Representative Snodgrass** moved to introduce **RS 15860** for printing. The motion carried by voice vote.

**Julie Weaver and Kent Nelson** from the Attorney Generals office were recognized for their research and help drafting this legislation.

**RS 15350**      **Representative Rich Wills** spoke in favor of **RS 15350**. The Idaho gaming statutes make the possession of a “slot machine” unlawful unless it was manufactured prior to 1950. This legislation provides a new definition of a slot machine and clarifies that many of the new electronic gaming devices are used for gambling. In a study of 17 locations in Idaho, 15 were using devices for gambling, and the money was not being taxed. This legislation address illegal activities.

Representative Wills asked that RS 15350 be printed with a change to Page 1, Line 34. This line should read, “Awards credits or contains a functioning circuit.” He said there will be no taking of machines from locations, and the Attorney General’s office did provide an opinion on this legislation.

Representative Wills deferred questions to **Amber French**, Idaho Lottery Commission. Questions were asked about whether pinball machines or machines at amusement facilities that give tickets in turn for merchandise or give credits for free games would fall under this definition. Ms. French said earning credits to earn more play is addressed on Page 1, Line 36 of this legislation. These machines do not have an electronic numbering system and a shutoff switch. Representative Wills pointed out the language starting on Page 1, Line 13-23.

It was asked if we have an enforcement issue rather than a legislation issue. Ms. French acknowledged this is correct. Law enforcement must go to bars and actually see the activity and know that payouts are being

received by customers. In 2004-2005, it was found that 15 out of 17 locations in Idaho did actual payouts. It is a huge problem that can't be enforced because these machines/activities are being hidden.

**MOTION:** **Representative Ellsworth** moved to introduce **RS 15350** for printing with the correction to Line 34, "*Awards credits or contains a functioning circuit.*" The motion carried by voice vote.

**RS 15711C1** **Representative Steve Smylie** introduced **RS 15711C1**, legislation that would allow school districts to incur a school bond indebtedness with the approval of two-thirds of the qualified voters or the approval of no less than 60%. The four dates (first Tuesday in February, fourth Tuesday in May, first Tuesday in August or the Tuesday following the first Monday in November) are the four consolidated election dates already in code. Representative Smylie referred to the Supreme Court decision in the Idaho Schools for Equal Opportunity lawsuit where the conclusion was "that the current method of funding as it relates to school facilities is unconstitutional". It is hoped this legislation will be a step towards resolving this issue.

**MOTION:** **Representative Ellsworth** moved to introduce **RS 15711C1** for printing. The motion carried by voice vote.

**H 414** **Mr. Ben Ysursa**, Secretary of State, spoke in favor of **H 414**, indicating that this is a simple housekeeping measure. The changes on Lines 36-40 basically add a reporting requirement for those persons who lose the primary until they reach a zero balance. A candidate who loses an election can still have a debt to pay off and can still receive contributions. This reporting requirement is similar to those who lost in the general election. Without this legislation only one report is required. There is a minuscule fiscal impact.

A Committee member asked about a debt that was shown on a prior report but does not show up on a current report. Mr. Ysursa said there was probably a debt repayment made, but there is a problem if the repayment is not reflected on a report. There is a form for this type of reporting.

**MOTION:** **Representative Miller** moved to send **H 414** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Miller** will sponsor **H 414** on the floor.

**H 415** **Mr. Ben Ysursa**, Secretary of State, spoke in favor of **H 415**, legislation that amends the Sunshine Law to plug a hole that started in 1997 when contribution limits were set by the Legislature. Contribution limits are meaningless if splinter groups are each allowed a separate contribution limit. The language on Page 2, Lines 9-26 clarifies that campaign contributions from affiliated entities be aggregated for purposes of contribution limits. Some people say that disclosure is enough and if so, get rid of limits. This body puts limits into legislation and affiliated entities are not allowed to exceed those limits. The Federal Campaign Act provides a good model for campaign limits.

In response to the questions about various entities and individual members of those entities making contributions, Mr. Ysursa referred to the language

on Lines 10-13 where it talks about person having exclusive control. If the individual(s) have exclusive control, their contribution would have to be aggregated. A question was asked about political committees having the names of major share holders, and the response was that the Secretary of State's office has a lot of that information already. When asked how a candidate receiving contributions would know who is on a board, Mr. Ysursa said the initial inquiry would go to the maker of the contribution and not to the person receiving the contribution.

**MOTION:** **Representative Ellsworth** moved to send **H 415** to the floor with a DO PASS recommendation. Representative Smylie disclosed under Rule 38 that he is running for a state elected position which may influence his vote. The motion carried by voice vote.

**H 556** **Mr. Ben Ysursa**, Secretary of State, spoke in favor of **H 556**, stating that this legislation is similar to H 416 that was printed earlier. In 1997, Idaho added a statute dealing with personal use of campaign contributions that was meant to mimic the federal statutes. Candidates and officeholders should have wide discretion in the use of campaign funds; however, some parameters must exist regarding what constitutes an impermissible "personal use". H 556 tracks the language of the federal law and lists specific prohibitions. The key point is that if the event is related to a campaign activity it is still legitimate. The hope is this language makes it clearer for all elections.

**MOTION:** **Representative Ring** moved to send **H 556** to the floor with a DO PASS recommendation. It was asked if this legislation requires extra reporting for candidates, and the response was "no" – it just clarifies how money can be spent and provides additional scrutiny. The motion carried by voice vote. **Representative Ring** will sponsor **H 556** on the floor.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 9:55 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 9, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representatives Black and Bilbao
- GUESTS:** Chairman Deal welcomed students from Bishop Kelly High School. Please refer to the Committee sign-in sheet and the presenters highlighted below for other guests.
- Chairman Deal called the meeting to order at 9:00 A.M. with a quorum being present. There were no minutes to review.
- RS 15908** **Mr. Justin Ruen**, Association of Idaho Cities, spoke in support of **RS 15908**, legislation that relates to publication requirements and rates for publishing official notices. This proposed legislation does three things:
- Clarifies and makes consistent the Idaho code dealing with publications and further defines "official" newspaper;
  - Repeals language that is obsolete and not serving a purpose; and
  - Proposes a rate increase for legal notices to be phased in starting in October 2006.
- In response to a question about the definition of "official" newspaper, Mr. Ruen referred to Page 65, Section 60-106. This section lays out the process of how the political subdivisions designate their official paper and how the official paper is designated for each type of governing body.
- A discussion followed and Mr. Ruen clarified the following:
- Most of the meetings that took place on this legislation were held in 2004 and included representatives from the Secretary of State's Office, the Association of Idaho Cities, the Idaho Newspaper Association, the Idaho Association of Counties and the Idaho Allied Dailies. The Statesman, the Ketchum paper and the Idaho Business Review were represented at some of the meetings.
  - It is not believed that increasing the point size of print will increase the cost, but this could be answered in greater detail at a hearing.
  - In response to a question about the proposal last year to use a word less loaded than "official" to define a paper of choice, it was explained that the term "official" was chosen because in the law cities are required to designate an official paper.
- MOTION:** **Representative Anderson** moved to introduce **RS 15908** for printing. Representative Smylie said he has no objections to printing the RS other than it is 73 pages long and will be very expensive. He did ask to be



recorded as saying that he is extremely disappointed that basically the same two bills that we debated last year and were split down the middle on are back this year. Once again we have not resolved any of the problems and the parties with differing ideas have not met to try and resolve the differences. He said he will not support any version of this legislation until he has been assured that all have sat down to resolve their differences or have brought back a specific list of the items they can't agree on. He would like more evidence this has been worked on before sending the legislation to print.

Chairman Deal stated that he has talked with some of the participants and there will be a meeting next week to try and resolve the issues on the competing bills. Chairman Deal said in his opinion this RS should be printed in bill form as we did on the competing RS.

**VOTE:** A vote was called for on the motion to introduce **RS 15908** for printing. The motion carried by voice vote.

**RS 15649C2** **Representative John A. Stevenson**, introduced **RS 15649C2**. He said this concurrent resolution provides an opportunity to ask the Idaho Attorney General to bring before the courts the constitutionality of the Idaho Indian gaming statutes. This issue surfaced because an Indian tribe from Utah is wanting to purchase ground to construct a casino in Idaho near the Idaho-Utah border. It has never been resolved that the Idaho gaming statutes agree with the Idaho Constitution.

**MOTION:** **Representative Smylie** moved to introduce **RS 15649C2** for printing. The motion carried by voice vote.

**RS 15599C1** **Representative Russ Mathews** presented **RS 15599C1**, legislation that amends some ambiguities in the Open Meeting Law. RS 15599C1 goes a long way in addressing when it is proper to go into an Executive Session. When laws are not clear for the judiciary, it unfortunately requires a lot of time, money and resources. This amendment to Section 67-2345 clarifies that a governing body of a public agency may consult its legal counsel in executive session when there is pending litigation or where there is a general public awareness of probable litigation. This legislation proposes to increase monetary penalties.

**MOTION:** **Representative Ellsworth** moved to introduce **RS 15599C1**. The motion carried by voice vote.

**H 468** **Mr. Ben Yursa**, Secretary of State, spoke in favor of **H 468** and urged support of the Health Care Directive Registry. This registry will provide a public service and allow those who are at the end of life to maintain dignity and to have their wishes followed. The legislation indicates that there could be a \$10 fee charged for this service, but it is the intent of the Secretary of State's office to make this free of charge to the public.

**Mr. Lawrence Wasden**, Attorney General, stated it is a pleasure to be here to stand with the Secretary of State and the AARP in favor of **H 468**. This registry can help all Idahoans to have 24-hour access to their living will and their medical durable power of attorney. The system will be secure, and a password will be needed to access the system. This

legislation grew out of efforts by the National Association of Attorney Generals. Part of the Attorney General's responsibility is to advise the state on deficiencies, and they have worked hard on these end of life issues. He mentioned the easily accessible website maintained by his office where individuals can obtain a form to use for their living will and medical power of attorney. He asked for support in offering this product so that end-of-life wishes can be addressed.

**Mr. William A. von Tagen**, Attorney General's Office, thanked the Attorney General and the Secretary for their comments and support. He said he had nothing more to add.

**MOTION:** **Representative Smylie** moved to send **H 468** to the floor with a DO PASS recommendation.

When a Committee member asked if legislation will be need to set up the fund for the registry, they were referred to Page 12 of H 468 where it authorizes the Secretary of State's office to accept donations. The intent is to create this service without Idahoans paying. Another Committee member asked about maintenance and upkeep of the documents and if there are duplicate documents, which will have the greatest authority. Mr. von Tagen pointed out that beginning on Line 9 it indicates that the document registered is no more valid than that of the second document. Often times someone has spent time considering a living will and when an emergency arises and they do not have a copy with them, they are required to complete a new one when under duress.

**PRO** **Mr. Joe Gallegos**, Associate State Director of AARP Idaho, spoke in support of **H 468**. He said he has no further comments to add – the intent is very clear. AARP Idaho requests your support for the good of everyone who will complete and file these forms. We often think that a living will registry is beneficial only for older individuals, but looking at the case of Terri Schiavo, we realize it is beneficial for individuals of all ages.

**VOTE:** In support of his motion, Representative Smylie closed by saying after recently experiencing the deaths of three loved ones, life is much easier if these documents are in place and accessible immediately.

A vote was called for on the motion to send **H 468** to the floor with a DO PASS recommendation. The motion carried by voice vote.

**Representative Smylie** will sponsor **H 468** on the floor.

**RS 15881** **Mr. William A. von Tagen**, representing the Attorney General's Office, introduced **RS 15881**, legislation dealing with the Tobacco Master Settlement Agreement. The proposed legislation clarifies that the term "stamping agent", under Idaho's Tobacco Master Settlement Agreement Complementary Act, includes those persons who pay the tobacco tax on roll-your-own tobacco. The amended language will ensure that all appropriate parties report their cigarette and roll-your-own sales, not just those who affix Idaho's cigarette tax stamp.

**MOTION:** **Representative Ellsworth** moved to send **RS 15881** for printing. The motion carried by voice vote.

**H 476**

**Mr. William A. von Tagen**, representing the Attorney General's Office, spoke in favor of **H 476**, legislation that is being proposed by the Attorney General's Office and the Secretary of State's Office. This legislation deals with non-essential or frivolous liens. In 1996 the proposed statute dealt with liens against real property that were generally filed with county clerks. We are seeing a shift with liens being filed with the Secretary of State against personal property. This legislation strengthens the statutes, gives individual remedies, expands the coverage to personal property, and covers those liens being filed with the Secretary of State. It also expands the penalty provision to allow the imposition of the penalty to frivolous lien documents filed with the Secretary of State and to frivolous lien documents that purport to create a lien against personal property.

When a Committee member said they had not heard of filing a lien on personal property, Mr. von Tagen explained this is referred to as "filing a financing statement". When it was mentioned that often times if a lien has been filed, it has not been released, Mr. von Tagen suggested contacting the lien holder and the Secretary of State's Office.

**MOTION:**

**Representative Ring** moved to send **H 476** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Ring** will carry **H 476** on the floor.

**RS 15808**

**Mr. Tim Hurst**, representing the Secretary of State's Office, stated that Representative Francis Field asked him to present **RS 15808**, legislation that clarifies the role of poll watchers and challengers in school elections. Because school election ballots are counted after the polls close, it allows the poll watchers to observe the conduct of the election and to work in shifts. Section 2 is amended to allow any qualified elector to vote by absentee ballot, not just those who are absent from the district the day of the election. Mr. Hurst asked that this RS be amended to add an emergency clause so this provision will be available for the May elections.

**MOTION:**

**Representative Miller** moved to introduce **RS 15808** for printing with the addition of the emergency clause. The motion carried by voice vote.

**H 467**

**Mr. Tim Hurst**, representing the Secretary of State's Office, asked that **H 467** be held because he will be bring a new bill.

**ADJOURN:**

Chairman Deal informed the Committee that they will not meet on Friday. There being no further business, the meeting was adjourned at 9:48 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 13, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart (Jacobson), Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Tina Jacobson sat in for Representative Hart
- GUESTS:** Students from Bishop Kelly. Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Vice Chairman Smylie called the meeting to order at 9:03 A.M. with a quorum being present. Minutes of February 7, 8, and 9, 2006 were reviewed.
- MOTION:** **Representative Ring** moved to approved the minutes of February 7, 2006 as written. The motion carried by voice vote.
- MOTION:** Representative Smylie asked that the minutes of February 8 be corrected to remove the sentence: "He said this is good legislation."  
**Representative Smith** moved to accept the minutes of February 8, 2006 with the above correction. The motion carried by voice vote.
- MOTION:** **Representative Miller** moved to accept the minutes of February 9, 2006 as written. The motion carried by voice vote.
- RS 16037** **Mr. Tim Hurst**, representing the Secretary of State's Office, introduced **RS 16037**, legislation that clarifies the role of poll watchers and challengers in the election process. He explained that when H 416 was drafted there was an oversight. **RS 16037** corrects that oversight by adding an emergency clause to ensure this legislation will take effect before the elections this year.
- MOTION:** **Representative Stevenson** moved to introduce **RS 16037** for printing. The motion carried by voice vote.
- Chairman Deal returned to the Committee and assumed the Chair.
- RS 15964** **Mr. Scott Turlington**, full time employee of Tamarack Resorts, LLC, spoke in support of **RS 15964**, legislation that would provide for licensing of liquor for a beverage, dining, or lodging facility located within the boundaries of a year-round resort. This legislation also sets forth an annual fee structure. Tamarack enjoys a liquor license now, but they have recently entered into an agreement with Andre Agassi who will be building the Fairmont Hotel on the property. Under current law, there is no avenue to acquire a liquor license for that hotel; therefore, they are

attempting to obtain licenses for facilities within the boundaries of a year-round resort.

Mr. Turlington provided the following information in response to questions:

- A year-round resort is defined on Page 3, starting on Line 4;
- Idaho has one or two year-round resorts, depending on how Sun Valley is operated.
- Page 2, starting on Line 13 explains the various licenses and the fee structure. Tamarack worked with the Alcohol Beverage Control Division to define the new fee structure. Tamarack itself will maintain the original liquor license and pay \$2,500 per year. The secondary license for the hotel owner would cost \$2,500 and any lessees would pay \$1,500.
- Additional small boutique hotels are planned in addition to the 250 room hotel. It is anticipated that there would be one other bar/lounge.
- A local liquor license recently sold in the McCall area, but Mr. Turlington was not sure of the exact price.
- The language found on Pages 3-6 is not language that was provided by Mr. Turnlington, and he believes it is existing language.

**MOTION:** **Representative Stevenson** moved to introduce **RS 15964** for printing, stating that this is an issue that needs further discussion/clarification. The motion carried by voice vote.

**RS 15917** **Representative Mary Lou Shepherd** introduced **RS 15917**, legislation that amends existing law pertaining to Fire Protection Districts. It would clean up various code sections and subsections by renumbering those sections and making other technical corrections. These corrections are necessary because of multiple amendments being made to these code sections prior to the 2006 legislative session. At the hearing there will be others available to answer questions.

**Mr. Gary Gould** responded to a question about Section 19, Page 15, stating this section is being moved to make it fit better. New language is added starting on Page 2, Lines 45-48 to provide that fire districts have the inherent authority to provide emergency medical services and ambulance services.

**MOTION:** **Representative Anderson** moved to introduce **RS 15917** for printing. The motion carried by voice vote.

**RS 15962** **Representative Nicole LeFavour**, spoke in support of **RS 15962**. This legislation would create an early teen intervention program similar to the community resource workers programs. This legislation proposes to create a three-year pilot project to establish a model for providing Idaho school districts with clinically trained substance abuse and mental health specialist counselors and social workers. Idaho's rural and urban areas are being critically impacted because of the shortage of mental health workers. In high schools, many of the counselors are doing academic work and overseeing the "no child left behind" initiative. Issues focused on would be depression, anger management, substance abuse and teen suicide. Cooperation between schools, the Department of Health and Welfare and the courts would be part of the process.

Representative LeFavour clarified that the terms used on Page 3, Line 39 are not defined in other sections of Idaho Code. The process for

selecting the schools for the pilot are outlined on Page 4, Line 30. Large numbers of professionals are not readily available in Idaho, but finding the eight practitioners for the pilot is not a problem. BSU now has a program available to train practitioners.

**MOTION:** **Representative Smylie** moved to introduce **RS 15962** for printing and to refer the bill to the Judiciary and Rules Committee. The motion carried by voice vote.

**Chairman Deal** took a minute to introduce **Acting Representative Tina Jacobson** who will be serving for Representative Hart in his absence. Three students from Bishop Kelly High School were also introduced.

**H 452** **Mr. Jan Cox**, Administrator for Division of Purchasing, Department of Administration, spoke in support of **H 452**. The proposed legislation was developed because of concerns from vendors. It allows the Division of Purchasing to immediately return all bid proposals when a bid is cancelled. Bids resulting in contracts are not the issue. Currently, when bids/proposals are cancelled prior to contract award, the administrator must keep these bids for three years and, when requested, they are made available to the public. Bidders can use this information to try to manipulate the process upon re-bid which can undermine the process and create an unfair and artificial bid environment.

**MOTION:** **Representative Ellsworth** moved to send **H 452** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Miller** will sponsor **H 452** on the floor.

**H 574** **Representative George Eskridge** spoke in support of **H 574**, legislation that allows the admission of spouses of eligible veterans to the state veterans homes. There are currently vacancies in some of the veterans homes and allowing spouses to enter will reduce the cost per patient. This legislation provides an opportunity to recognize spouses of veterans and allows them to enter into veterans homes.

When asked if the veterans homes are filled to capacity and a veteran wants to enter the home, will they be denied, Representative Eskridge said this is a possible risk; however, the Department of Veterans Services will be monitoring the waiting list and the potential veterans needing admittance.

**MOTION:** **Representative Shepherd** (2) moved to send **H 574** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Eskridge** said he would be honored to sponsor **H 574**.

**ADJOURN:** Chairman Deal informed the Committee that Carl Bianchi will be making a presentation on "Capitol Restoration" tomorrow and this is their opportunity to ask questions. This Committee has been assigned to gather information and make a recommendation as to what type of resolution is needed. The meeting was adjourned at 9:44 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 14, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart (Jacobson), Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Tina Jacobson sat in for Representative Hart
- GUESTS:** Ms. Pam Aherns, Ms. Jan Frew, and Mr. Tim Mason, Department of Administration; Mr. Carl Bianchi and Mr. Eric Milstead, Legislative Services; Mr. Steve Guerber, Idaho Historical Society and a member of the Capitol Commission; and students from Bishop Kelly and Homedale High Schools
- Chairman Deal called the meeting to order at 9:01 A.M. with a quorum being present. The first order of business was to review the minutes of February 13, 2006.
- MOTION:** **Representative Miller** moved to accept the minutes of Monday, February 13, 2006 as printed with one correction at the top of Page 3: "Lareg" needs to read "Large". The correction was so noted, and the motion carried by voice vote.
- Chairman Deal mentioned that Mr. Carl Bianchi is going to discuss some of the ground work on capitol restoration by the Leadership committee and the Capitol Commission, give a summation of the Leadership Committee's work on capitol restoration and present three resolutions for the Committee's consideration. If anyone else has an idea in the form of a resolution, it will be acceptable for the Committee to consider this and add it to the list of ideas.
- PRESENTATION:  
CAPITOL  
RESTORATION** **Mr. Carl Bianchi**, Legislative Services, explained that capitol restoration actually began in 1998 when legislation was enacted to ensure historical character and architectural integrity of the Statehouse, to ensure the grounds be preserved and to promote and to create the Capitol Commission. One of the first things the Commission learned was that the building was falling apart inside and out and the infrastructure was crumbling.
- In the 2001 Session, the master plan adopted by the Capitol Commission was approved by the Legislature, the State Building Authority was authorized to carry out restoration, the Legislature appropriated \$32 million for restoration, and the initial attempts for remodeling the courthouse failed. The master plan called for better offices and larger committee hearing rooms, but no hearing room space for the capitol.

In the 2002 Session, Idaho experienced a budget crisis and the \$32 million was transferred into the General Fund, restoration was postponed, and the second courthouse remodel proposal was withdrawn.

Work on the capitol since the restoration was delayed has consisted of stonework and dome repairs, drainage improvements, skylight replacements, and restoration of the eagle.

There is a growing recognition of the need for larger hearing rooms with the latest technology and the realization that restoration costs are escalating. In 2000 it was estimated the cost of restoration would be \$64 million and the 2007 estimate is now at \$74.11 million.

In the 2005 Session, options considered were SCR 102, addition to the Ada County Courthouse; SCR 101, raze and replace the courthouse; and SCR 108, study adding above ground wings to the capitol. H 386, watershed legislation, was amended to distribute some of the tobacco tax money to the permanent building fund until such time as the capitol restoration is adequately funded as certified by the director of the Department of Administration. The biggest hurdle was overcome.

With the meter running and the cost escalating, the Speaker and the Pro Tem setup an Interim Task Force.

**Mr. Eric Milstead**, Legislative Services, briefed the Committee on the work of the Capitol Restoration Task Force that was charged with studying the capitol restoration master plan, looking at development of related mall property and possible enlargement of the capitol, and making recommendations to the Pro Tem and the Speaker. Five meetings were held since May 2005 and two other capitol restoration projects were toured.

The scope of information covered by the task force was broad and they considered above ground wings, garden level wings (one and two level), Ada County Courthouse renovation/addition, west annex and connectivity issues. The Department of Administration assisted the task force and Lemley and 3DI consultants were hired.

The consultants pointed out that the addition of two above ground wings would not meet national historic guidelines, would eliminate two of the grand stairways, and the size of the wings would require seismic upgrades to the capitol. The cost of trying to match the interior design of the capitol would raise the cost to about \$700 a square foot and raise the cost of restoration to over \$200 million with no seismic upgrades.

The task force was still interested in pursuing additional space and the concept of garden level wings was brought before the task force. The task force visited Austin, Texas and toured their underground extension with offices and parking.

After the tour, the task force met three more times and points of consensus were that capitol restoration must move forward, additional hearing rooms are needed that are connected to the Statehouse, and high speed elevators are needed to the 3<sup>rd</sup> and 4<sup>th</sup> floors. Other options



should include underground connections to other capitol mall sites and to future buildings. It was also agreed that the Ada county Courthouse could be used as a temporary facility for two legislative sessions and the fix-up costs would be modest – \$400,000. The task force developed three proposals:

Option A: Add two single-level underground wings - East and West ends; 66,000 sft. – cost \$24 million (does not include the \$74.1 million for Statehouse restoration; moving costs and courthouse renovations).

Option B: Add one single-level underground wing on South side; 30,000 sft. – cost \$16 million (does not include costs cited in Option A).

Option C: Add three single-level underground wings – East and West ends and South side; 96,000 sft. – cost \$36.1 million (does not include costs cited in Option A).

The proposed timeline was reviewed. Both houses would have to pass the resolution, the Department of Administration would enter into a financial contract, and the Capitol Commission would select the architect and the contractor. The 2007 Session would be held in the capitol and the 2008 and 2009 Sessions would be held at the Ada County Courthouse. The state owns the property and if the 30-month restoration is extended, we don't have to extend a lease. The 2010 Session would be held in the capitol.

The Capitol Restoration Task Force developed three non-binding resolutions. The Pro Tem and the Speaker asked that all three resolutions be brought to this Committee to allow the house an opportunity to discuss the restoration. Chairman Deal said he feels the best plan to begin consideration of the options is to print the resolutions and allow those with other ideas to bring forth any new resolutions. All would be brought back before the Committee, and we determine which plan to bring before the whole house.

**RS 16057C1**

**Mr. Carl Bianchi** presented **RS 16057C1**. Page 2 of this resolution sets forth the criteria for adding two single level wings on the East and West ends of the capitol. It addresses the need for larger, state of the art hearing rooms, committee and staff office space, connectivity between the capitol and its garden level atrium wings, high-speed elevators, and other design changes to accommodate the atrium additions. Financing is authorized and construction dates are outlined.

**MOTION:**

**Representative Bilbao** moved to introduce **RS 16057C1** for printing. The motion carried by voice vote.

**RS 16058C1**

**Mr. Carl Bianchi** presented **RS 16058C1**, a resolution that provides for the construction of a one-story underground 30,000 square foot addition on the south side of the capitol, under the grand stairway. This proposal also requires reassessing the master plan and will not provide connectivity or high-speed elevators.

**MOTION:**

**Representative Smylie** moved to introduce **RS 16058C1** for printing. The motion carried by voice vote.

**RS 16058C1**

**Mr. Carl Bianchi** presented **RS 16059C1**, a resolution that provides for all three additions – East, West and South. Page 2, starting with Line 13 outlines the construction of each addition, the connectivity, the high-speed elevators and the reassessment of the master plan's assignment of space throughout the capitol and any other design changes.

Regarding questions about the cost of each proposal, it was explained that the least cost would be for the East and West wings with a cost of about \$304 per square foot. The cost for all three wings would be the middle cost. The most expensive would be the South side addition because of disassembling and reassembling the grand stairway.

A Committee member asked about the need for additional square footage down the road, and Mr. Bianchi said the task force struggled with that and figured that 50,000 additional square feet would meet the current needs and the needs for the next decade. It is estimated that constructing two levels on each wing would add about \$33 million and another 15% for design. Another question was asked about ground water issues if two levels are built, and it was explained that with modern construction that ground water is less of a concern according to Mr. Lemley, one of the consultants.

**MOTION:**

**Representative Miller** moved to introduce **RS 16059C1** for printing. The motion carried by voice vote.

Chairman Deal thanked Mr. Bianchi and Mr. Milstead for the very informative presentation. He thanked Director Aherns and her staff for being present. He suggested that the Committee contact Mr. Mason, Mr. Bianchi or Mr. Milstead if they have questions.

**ADJOURN:**

Chairman Deal outlined the agendas for the rest of the week and informed the Committee that they would meet at 8:00 A.M. on Thursday. There being no further business to come before the Committee, the meeting was adjourned at 10:23 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 15, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Black
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below. Students from New Plymouth High School were introduced.
- Chairman Deal called the meeting to order at 9:04 A.M. with a quorum being present. The first order of business was to review the minutes of Tuesday, February 14, 2006.
- MOTION:** **Representative Bilbao** moved to accept the minutes of February 14, 2006 with one correction to Page 1, 1<sup>st</sup> Sentence after the motion, changing "dis" to "is". The correction was so noted, and the motion carried by voice vote.
- RS 16040C1** **Mr. Rich Hahn**, Idaho Power, spoke in support of **RS 16040C1**, legislation that replaces H 557. After H 557 was printed, the PUC suggested that language be added on Line 35 to read "*the commission shall determine whether*" and on Line 37 "will" was changed to "may". This amendment provides the PUC the authority to determine whether the gain or loss occurring from the sale or other disposition of the property may be included in the utility's rates.
- MOTION:** **Representative Smylie** moved to introduce **RS 16040C1** for printing. The motion carried by voice vote.
- RS 15926** **Mr. Michael J. Kane**, representing the Idaho Sheriff's Association, spoke in favor of **RS 15926**. The intent of the legislation creating the Emergency Communications fees was not to spend the fees outside of the 911 arena. Apparently, some thought the fees could be used to pay dispatchers. **RS 15926** clarifies that the 911 fees are not to be used to pay for dispatching, but may be used to pay for salaries of persons charged with management duties pertaining to hardware and software applications pertinent to 911 centers.
- MOTION:** **Representative Shepherd (2)** moved to introduce **RS 15926** for printing. The motion carried by voice vote.
- RS 16075** **Representative Edmunson** spoke in support of **RS 16075**. Representative Stevenson requested that the RS be printed and placed on the Second Reading Calendar so it will be introduced when Senator

Crapo visits next week. This joint memorial supports Senator Mike Crapo and his efforts to improve and reform the Endangered Species Act (ESA). Through Senate Bill 2110, Senator Crapo has focused on the goals of improving species recovery, expanding the roles of states to manage listed species, and providing compensation for landowners for their efforts in species protection.

**MOTION:** **Representative Stevenson** moved to introduce **RS 16075** for printing and then place the bill on the Second Reading Calendar. The motion carried by voice vote.

**RS 16076** **Representative Edmunson** spoke in support of **RS 16076**, legislation that he asked be printed and referred to the Environment, Energy, and Technology Committee. RS 16076 would authorize the Boards of County Commissioners and their respective counties to develop, own and operate electrical generation facilities up to 25 megawatts that uses as a fuel source landfill gas, wood waste or other biomass fuels. Adams County was recently prevented from establishing an electrical generation facility to utilize waste wood. This legislation would allow them to establish such a facility.

**MOTION:** **Representative Smylie** moved to introduce **RS 16076** for printing and to refer it to the Environment, Energy, and Technology Committee. The motion carried by voice vote.

**Mr. Larry Johnson**, Manager of Investments for the Endowment Fund Investment Board and Chairman of the Endowment Reform Review Task Force, was called upon to present **H 591** and **H 592**. The task force was appointed by the Governor last September at the request of the Land Board. The Reform Review Task Force's mandate was to examine the overall management of the state's endowment assets. They identified some technical adjustments to existing statutes that needed to be made in order to eliminate ambiguity, improve implementation, and reduce the likelihood of litigation to clarify the meaning of the existing statutes. These changes also ensure we're aligned with the constitution.

The Reform Review Task Force includes two legislators, senior staff of Land Board members, and representatives of JFAC, the EFIB, and the Department of Lands. Representative Deal serves on the Task Force. Other Task Force members who were present were Chuck Goodenough, Secretary of State's office, and Kent Nelson and Julie Weaver, Attorney General's office. Kent and Julie were the major drafters of this legislation and are available to answer questions.

In addition to being developed and unanimously endorsed by the 11-member Task Force, both pieces of legislation have been reviewed and formally endorsed by the Endowment Fund Investment Board and the State Land Board.

**H 591** **Mr. Larry Johnson** spoke in support of **H 591**, legislation that was drafted as a technical adjustment to Section 57-724A and does not change the intent of the existing statute. The original legislation adopted in 2004 says that when the public school permanent fund generates a gain, then the definition of endowment earnings will change.

Mr. Johnson used a color-coded version of the legislation that depicts each amendment and explains the purpose for the amendment (Attachment A of the attached memorandum addressing H 591). Currently cash returns and capital appreciation are considered separately, but when the public school fund hits its gain benchmark, then cash returns and capital appreciation will no longer be considered separately, but will be measured together as part of the total return of the fund. The Task Force fully supports measuring things on a total return basis, but believes it is better implemented if the trigger for the change in definition is pulled separately for each endowment, rather than being tied solely to the public school fund.

Having the definition change for all endowments at the same time slightly increases the risk of a shortfall in appropriated endowment distributions so it is recommended to do this on an endowment by endowment basis.

Implementation of this change is delayed so that the Land Board and the Legislature will have a year to take this change into account in setting distributions and appropriations.

**MOTION:** **Representative Bilbao** moved to send **H 591** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Deal** will sponsor this legislation on the floor.

**H 592** **Mr. Larry Johnson**, Manager of Investments for the Endowment Fund Investment Board and Chairman of the Endowment Reform Review Task Force, spoke in support of **H 592**. This legislation makes technical adjustments without changing the intent of the existing statute.

The existing statute is vague on how gains in the endowments are to be determined, and this legislation clarifies the calculation of gains and losses to the state's endowment funds. It also clarifies the mechanism for recovery of losses to the endowments, including the constitutionally mandated recovery of losses to the Public School Permanent Endowment. Should we be in the unfortunate position of having a loss in the public school fund after ten years, the legislation clarifies how a recovery in the market value in years 11 and 12 would offset any deficiency that must be made up.

Mr. Johnson used a color-coded version of the H 592 to explain the purpose of each amendment (Attachment B of the attached memorandum addressing H 592).

A Committee member asked how the Public School Endowment Fund is doing now compared to two years ago. It was explained that this legislation won't help returns in the fund, but we are having a good fiscal year with the gains being up over 11%.

**MOTION:** **Representative Smylie** moved to send **H 592** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Deal** will sponsor this legislation on the floor.

**H 570** **Representative Darrell Bolz** spoke in favor of **H 570**, legislation that will protect the names of applicants from disclosure to the public. Several

court decisions have indicated that the Public Records Act does not currently prevent disclosure of names of applicants for public employment. Under current statutes there is nothing to prevent an employer from knowing when an employee is applying for another position which can cause unnecessary harm or embarrassment to an unsuccessful applicant.

In response to a question from a Committee member, Representative Bolz said this legislation came from the Division of Human Resources.

**CON**

**Mr. Bob Hall**, Idaho Newspaper Association, said his organization opposes **H 570** unless it is amended. He said the Public Records Act is one of the oldest continuing acts and has been worked on by those who believe every citizen should have access to public information. A balance should be found only when it is purely proven that there are threats to public safety or health and rights are violated. The Public Records Act does include exemptions from disclosure. In the Statement of Purpose and in the testimony a proven record of violations can't be found. This legislation can be used by anyone who wishes to benefit by securing public employment. The names of those who use the state to get benefits should be made available. There needs to be a specific crisis or reasons to justify this legislation, not that "it can cause unnecessary harm or embarrassment".

A Committee member remarked that as a Human Resources Practitioner, it is common knowledge that if an employer finds that an employee has entered a job search they may be terminated. It is unclear why you would jeopardize someone's employment. Mr. Hall remarked that he was aware that we were jeopardizing employment.

**PRO**

**Ms. Ann Heilman**, Administrator, Division of Human Resources, said there is confusion whether or not an applicant's name should be revealed and it is not their intent to keep information secret. She pointed out that on Page 4, Lines 52-53, say "An applicant's name shall not be disclosed to the public without the applicant's written consent unless such disclosure is part of an established hiring process." This legislation provides that names are not given out without the applicant knowing and protects the privacy rights of those looking for a job.

Representative Bolz closed by saying that Ms. Heilman did a good job of summing up the intent of H 570.

**MOTION:**

**Representative Stevenson** moved to send **H 570** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Bolz** will sponsor H 570 on the floor.

**H 571**

**Representative Darrell Bolz** spoke in support of **H 571**, legislation revising the current statute dealing with veterans preference in hiring practices within state government. This legislation was looked at a year ago, but it was determined it needed more work in the interim. This legislation is the result of a cooperative effort with the Division of Veterans Services, Office of Veterans Advocacy, and the Division of Human Resources. The legislation was submitted to several agencies for comment and those comments were incorporated. This legislation is a

total make over of the Veterans Preference statutes, and as much as possible, the federal guidelines were followed.

Representative Bolz highlighted several key definitions and changes:

- Residency of veterans – no longer requires Idaho residency to allow hiring the best qualified;
- Disabled veteran – 10% is minimum level for compensation;
- Purple heart recipients – brings into compliance with federal law;
- Preference for hiring – used for first job in an agency and once employed should do well enough to compete based on ability;
- Students – excludes students from using preference for career oriented position;
- Use by Spouses – spouses may use the preference if the veteran cannot work;
- Damages – the amount for damages was raised from \$250 to \$5,000 and;
- Sections 16, 17, and 18 were amended and some language was deleted with a reference made to other sections of code.

In response to questions from a Committee member about use of veterans preference and when the preference points are awarded, Ms. Hielman explained that veterans preference can be used once within a Department and used for an initial position in a specific field. The veteran preference points are awarded/considered once it is determined that the applicant meets the minimum qualifications for a position.

**MOTION:** **Representative Ring** moved to send **H 571** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Bolz** will sponsor **H 571** on the floor.

**H 469** **Representative Wendy Jaquet** spoke in support of **H 469**, legislation that puts additional definition to existing language in the Idaho Consumer Protection Act. Specifically it (1) stipulates price gouging protections at the wholesale and retail level and ultimately the consumer (according to the Attorney General's Office, wholesaler and distributor are used interchangeably); (2) the protections fall into a more tightly defined circumstance during a disaster declared by the Governor or the President - a 90-day window; and (3) the legislation also amends code to increase civil penalties from \$5,000 from \$10,000.

Price gouging is defined as taking advantage of consumers seeking goods or services that are in short supply; taking an opportunistic action. Post Katrina there were legitimate fears that supplies might be constrained – fears for Idaho consumers and fears for retailers and wholesalers about supply and demand and when to raise prices. There were concerns all along the food chain.

During an emergency, this legislation proposes a 90-day window to allow the marketplace to get back to normal and protects consumers. When the market place isn't working, the Attorney General is empowered to look at the food chain and the tools to get the job done.

A Committee member voiced a concern about the language found on Page 2, Lines 32-34 which allow the executive branch to continue

declaring an emergency beyond the 90-days. Representative Jaquet says she understands the concern, but this language puts in sidebars that were not in the current statute.

**CON**

**Mr. Dick Rush**, representing the Idaho Association of Commerce and Industry, spoke in opposition to **H 469**. Idaho law already makes it illegal to sell products at exorbitant prices and the Attorney General's office has authority to take action. This legislation extends the state's authority to affect the food chain and impacts market pricing which concerns the business community. Mr. Rush explained how the market works and indicated that a farmer might miss the whole market window in 90 days. Prices can fluctuate 70 - 100% in a matter of days.

To prove excessive pricing in court would be a lengthy, expensive process and require massive amounts of information to be gathered. Idaho has strong consumer protection laws and there are 19 items already included.

A Committee member stated that it seems whenever the Attorney General wants to launch an investigation, it goes back to the wholesaler. The question was asked if under the current law, does the Attorney General have the right to investigate the wholesaler. Mr. Rush said the catchall is "unconscionable method", and as far as exorbitant pricing by wholesalers, he is not sure the Attorney General is given that authority. When asked if having a statute that allows you to look at the wholesaler, would that put a chilling affect on the wholesaler. Mr. Rush said he believes the grower would make the decision to up the price.

**CON**

**Mr. Dennis Tanikuni**, Assistant Director for Public Affairs, Idaho Farm Bureau Federation, spoke in opposition to **H 469**. Farmers are price takers and have no control over the price of commodities. Presidential disaster may affect commodities. Prices may be kept low to wholesalers and retailers but they could turn around and sell for a higher price outside of the jurisdiction. The question the Farm Bureau has is should an Idaho supplier be penalized under adverse economic conditions. It is conceivable they could loose an entire marketing season. In a situation where a commodity producing area is destroyed and there is a shortage, other production areas would have prices affected by this legislation.

A Committee member asked if exorbitant and excessive prices are relative to a situation, and Mr. Tanikuni said in the commodities market you can see price swings of 100% within a few days.

**PRO**

**Mr. Dave Carlson**, Director of Public and Governmental Affairs with AAA, spoke in support of **H 469**. AAA feels these protections are needed. As a consumer organization they have been reporting gasoline prices for a lot of years (Attachment 3). Following Katrina when gas prices rose sharply, Attorney Generals across the country moved swiftly to determine if price-gouging was occurring – a number of states have been successful in their prosecutions. Businesses are entitled to be profitable, but consumers shouldn't be taken advantage of during a disaster.

There were no indications that there were shortages of gasoline in Idaho, yet on October 30, 2005 Idaho's gas prices were the fourth-highest in the



nation. Idaho's Attorney General joined others who were demanding answers from oil companies, distributors and retailers (Attachment 3). If this legislation had been in place we would have more answers. This legislation affords Idahoans a little more transparency.

**CON**

**Ms. Pam Eaton**, Executive Director, Idaho Retailers Association, spoke in opposition to **H 469**, stating that everyone recognizes that manipulating the market is dangerous. She said this bill is well intended, but felt this can be accomplished with the current language. All wholesalers are not located in Idaho. Manipulating the market place can cause shortages. By adding the 90-days you are extending the emergency much longer. Everyone focused on gas prices, but during this time the retailers were losing money. Retailers may keep price high to make up their losses which has not been shown to be price-gouging. The Attorney General did investigate retailers and it was found that no one broke the law. Retailers just want to stay in business.

Representative Jaquet closed by saying that if there is a problem with the 90-days, the legislation can be amended to 30-days. A Committee member asked what the rationale was for extending the time frame from 30 to 90 days. **Mr. Brett DeLange**, Attorney General's Office addressed this question, saying that it is a policy decision for the Committee to make – whatever it feels is appropriate. After Katrina, some of the activity took place after the 30-days, and if it happens after 30 days, the current law does not cover this. Mr. DeLange clarified that Subsection 18 of this legislation has no bearing on price gouging. In response to whether he had ever enforced Subparagraph 19, he said only as the current law applies to consumer protection. Current law does not cover wholesalers and retailers. Under current law they can contact a wholesaler and can go after them if they violate consumer protection. With this language they could go after a wholesaler out of state.

**MOTION:**

**Representative Snodgrass** moved to HOLD H 469 in Committee. He said AAA shows that markets work. We are still seeing prices fluctuating and people have choices. In the 1970s when we put a cap on gas prices there were long lines waiting at the pumps. A recent article on Katrina stated that if states didn't have laws preventing people from getting help they wouldn't have been at the mercy of the federal government. Markets work if we let them.

A Committee member said they were still unclear about the Attorney General's role. Mr. DeLange said the AG feels this is a policy making decision to be made by the Legislature. The current law covers retailers, but what it doesn't cover is the refineries in Salt Lake. The question is whether the legislature wants Idaho to deal with the wholesaler, and if so, the law needs to be changed.

**SUBSTITUTE MOTION:**

**Representative Smith** made a substitute motion to send **H 469** to GENERAL ORDERS to change the 90-days on Page 2, Line 33 to 30-days.

**AMENDED SUBSTITUTE MOTION:**

**Representative Ellsworth** made an amended substitute motion to send HB 469 to GENERAL ORDERS to reinstate the language on lines 32-33, still giving the Attorney General the authority to investigate wholesalers and retailers.

**VOTE ON ALL  
THREE  
MOTIONS:**

Chairman Deal called for a vote on the amended substitute motion. The "nos" appeared to have it and the motion failed.

A vote was called for on the substitute motion to send H 469 to GENERAL ORDERS to change the 90-days on Page 2, Line 33 to 30 days. The "nos" appeared to have it and the motion failed.

A vote was called for on the original motion to HOLD H 469 in the Committee. The motion carried by voice vote and H 469 will be HELD.

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 11:12 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 16, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Black

**GUESTS:** Please refer to the attached Committee sign-in sheet and to those presenters highlighted below.

Chairman Deal called the meeting to order at 8:04 A.M. with a quorum being present. There were no minutes to review.

*Note: The written testimony provided will be included in the official Legislative Library minutes and the Secretary's copy of the House State Affairs minutes (see attachments indicated below).*

**HCR 35**                    **Representative John A. Stevenson** spoke in favor of **HCR 35**, saying this is an issue to keep us focused on what we are trying to accomplish; and important for all to consider. The issue is not whether we have feelings towards the Tribes, but an issue of Constitutionality. Proposition One should have been a Constitutional amendment.

In 1997, this body passed H 265, a statute authorizing any citizen to test the constitutionality of an initiative before the Supreme Court. This is the position we are taking. Frank Wolf in his letter dated January 6, 2006 (Attachment 1) is asking the President to deal with the issue of Indian Gaming. The second paragraph, talking about the lobbyist Jack Abramoff and his ties to tribal casinos, states "it's time to call a halt to the explosion of tribal gaming."

**PRO**                    **Former Senator Laird Noh**, spoke in support of **HCR 35**. A two-page document "Background and Summary of Recent Events – Tribal Gambling" was provided along with portions of Article III, Section 20 of the Idaho Constitution, and an earlier unsuccessful case that tested legality (Attachment 2). The next to the last paragraph on page 2 was called to the Committee's attention. "The Idaho State Journal recently reported that the Shoshone Bannock Tribe has a large, federal economic development grant which will be used to plan a new casino, a resort hotel, and a 24-hour restaurant north of Pocatello."

**Summary of Events Leading to Today:**

- In response to rapid expansion of tribal and other gambling activities in the United States, the Idaho Constitution was amended in 1992. The amendment strengthened prohibitions against casino gambling including "... electronic or electromechanical imitation or simulation...."

- The Coeur d'Alene Tribe challenged in federal court. The Tribe lost, but continued to use the machines. The then governor negotiated compacts with the three North Idaho Tribes.
- The Shoshone Bannocks were the last Tribe to settle, except for the Duck Valley Tribe. They finally signed a compact with Idaho in which both sides waived sovereign immunity, agreeing to go into federal court to settle the issue.
- Litigation proceeded before Judge Lynn Winmill in April 2001.
- Shoshone Bannocks, the Tribal Gaming Initiative, was approved in 2002. Its constitutionality was challenged by a citizens group.
- Judge Winmill stayed the Sho-Ban litigation pending the outcome of the constitutional challenge, which never materialized. The case was dismissed.
- The Tribal Initiative stated the machines were legal. Legality was based on the Initiative's proposal to use the number of machines in possession as opposed to the number in use.
- Judge Winmill ruled in favor of the Shoshone Bannock Tribe in April 2004 based on the Tribal Initiative. The Attorney General did not raise the issue of constitutionality before the Judge.
- The Attorney General appealed to the Ninth Circuit. The Ninth Circuit has a policy to not hear cases until efforts are made to mediate a solution.
- The Tribe resisted mediation until they learned that the Northwest Band of Shoshones, a small Tribe in Northern Utah, had purchased land in Oneida County, and had petitioned the Governor and the Secretary of Interior to authorize them to build a casino.
- The Shoshone Bannocks decided to proceed with mediation. Three sessions were held in late 2005. The Shoshone Bannocks pushed for an off-reservation casino in Twin Falls, Mountain Home or McCall.
- An agreement seemed at hand until the Shoshone Bannocks decided to oppose the Nez Perce water agreement. They threatened to sue the Governor. The Governor called off further mediation. The case is back before the Ninth Circuit.

The constitutionality of the initiative and the legality of video gaming machines remain undecided. There has been criticism leveled against leadership; but this is not a leadership bill. There was no intent to bypass the Indian Affairs Committee. Although this extremely critical issue was known by the Governor and the Attorney General, it was never brought to the Indian Affairs Committee or to the Chairmen of the germane committees.

## PRO

**Retired Chief Justice Bakes** spoke in support of HCR 35, explaining he did not represent the Idaho Judiciary or a private client. He presented a brief history of gambling in Idaho. In 1940 the first slot machines were allowed in Garden City. In 1970 pari-mutuel horse racing began. The Idaho Supreme Court distinguished between lotteries and gambling – gambling and pari-mutuel horse racing involve skills. The next issue was whether Idaho could have a lottery. The Supreme Court said that the lottery involves chance, not skill. In 1988 a Constitutional amendment passed authorizing (1) a state lottery; (2) pari-mutuel betting; and (3) bingo and raffle games that are operated by qualified charitable organizations. Another amendment specifically stated that “No activities in subsection (1) shall employ any form of casino gambling....”

In 2002, rather than try to amend the Constitution, Proposition One

passed. A group of citizens attempted to argue the constitutionality of Proposition One, but ran out of resources. No one is standing up for the Constitution unless it is this body. Based on the testimony presented, Tribes are buying land outside the reservations, intending to open casinos on that land. Should that occur, Idaho will resemble Nevada in its approach to gambling. The time to determine Constitutionality is before capital investments are made. A Constitutional Amendment requires a two-thirds vote of both legislative houses. Gambling will continue to expand until Proposition One is litigated.

When asked if anything would stop a private party from filing suit and seeking judgment, Judge Bakes said expense would be a very large deterrent; and the fight would be difficult. He agreed that's why the state is being asked to put that money out.

In response to a question about why the SOP is asking the Attorney General to bring actions, but the legislation says the AG would appoint a special counsel, Judge Bakes said the AG has to defend the initiative and has a conflict of interest in determining constitutionality. He agreed we are asking the taxpayers to pay to defend and challenge this.

When asked what steps the Tribes would be required to take in order to build and operate a casino off reservation land, Judge Bakes said they would have to acquire land off the reservation—as the Utah Tribe has done, seek approval from the Bureau of Indian Affairs and the Secretary of the Interior, and negotiate a compact with the Governor. The “evil is here” because of contributions and gambling money going into campaigns.

Chairman Deal informed those present that nineteen people were signed up to testify; therefore, a time limit could be set, or some of the testimony from the Tribes could be consolidated. Chief Allen said he preferred that everyone be given a chance to testify.

**CON**

**Senator Mike Jorgenson**, Chairman of the Idaho Indian Affairs Committee, spoke in opposition to HCR 35, saying it has been implied that all of leadership is in favor of this bill – but all are not. Former Senator Noh did inform him two days ago about this legislation. The specific purpose of the Indian Affairs Committee is to communicate between the legislature and the Tribes. To keep the Committee informed, a memo was circulated requesting notification of any proposed legislation. In this way, the Committee attempts to discuss issues and work to resolve them as opposed to “going on the war path.” The fundamental issue is that special interest groups have challenged the constitutionality of Proposition One, and have run out of money. They are now asking the state to challenge it. Proposition One and the issues surrounding it are now in the courts. This use of time and money is disappointing and destructive. Indian Tribes have become a growing, contributing part of Idaho. Mr. Jorgenson referred to a letter submitted by the Kootenai County Board expressing their opposition to HCR 35. The Coeur d’Alene Tribal leaders have supported many community needs such as local schools, a new health care center and the CityLink bus Service (Attachment 3).

**CON**

**Mr. Russell Westerberg** testified in opposition to HCR 35 in behalf of his

clients, the Kootenai Tribe of Idaho, who are dismayed that members of this legislature seek to use taxpayer dollars to challenge a law that has brought significant hope and benefit to the Tribe and neighboring communities. He understands those disagreeing with tribal gaming want to challenge the law, but doesn't understand why they are not asking the legislature to change the law. Mr. Westerberg shared his experience in challenging citizen initiatives, and the lottery. He closed by saying tribal gambling exists because Idaho has a lottery. He said "HCR 35 is a waste of time and money and an insult to the Tribes and the voters who approved Proposition One" (Attachment 4).

In response to a question from a Committee member, Mr. Westerberg clarified that the compact with the state requires the Kootenai Tribe to contribute 5% of their adjusted gross income to education. They do not pay state taxes, because Article 21 says only the US Congress has jurisdiction of the Tribes.

**CON**

**Chief Allan**, Chairman of the Coeur d'Alene Tribe, spoke in opposition to HCR 35. As a voter and taxpayer, he is offended that the legislature keeps bringing up this issue. Fifty-eight percent of Idahoans voted for Proposition One. The Tribe had hoped that Idaho would help them significant Tribal concerns, such as alcoholism and poverty. When that didn't happen, the Tribe went into business. The Coeur d'Alene Tribe contributes to the state's economy and pays \$1 million in state taxes. Chief Allan gave the percentages of voters in each county who voted for Proposition One, saying he "believes in the will of the people." He asked that lawmakers "do (the tribe) right, work with them and not be afraid of them. They follow the compact and do what's right."

**CON**

**Mr. Francis Sidch**, Vice Chairman of the Coeur d'Alene Tribe, spoke in opposition to HCR 35. He indicated that the Tribe is the second largest employer in the area. The resort spends \$20 million in goods, services and wages and they do business with 100 vendors, creating the multiplier effect. They are part of the tax base, paying \$1 million in taxes to the state. Before the casino was built, Benewah County's unemployment rate was 11.4% -- it is now 7%. The CityLink bus service provides service to shopping and the health care center as well as to the casino. Their partnership has been long cultivated with the city -- they donated \$100,000 to the Chamber of Commerce for future economic development, they pay their 5% for education, and they are implementing a scholarship fund. The Tribe needs to focus on diversifying their economy and returning more dollars to the community. They are honorable and have kept the promises they made 13 years ago.

**CON**

**Mr. Bill Roden**, representing the Coeur d'Alene Tribe, opposed HCR 35. He concentrated on the content of HCR 35, saying the debate will take place somewhere else. Looking at how HCR 35 is written, and at the resolve clause, the Attorney General is not asked to bring action. Someone else is intended to interpret this -- "...appoint special counsel to bring an action in a court of competent jurisdiction to determine...". Mr. Roden said he is offended by the estimated cost, which would be in excess of \$75,000. It is not clear who the plaintiff would be if the resolution passes; or if the legislature or the State of Idaho would be the defendant. The state cannot sue a Tribe and a Tribe cannot sue the

state. The Attorney General has taken the position that he cannot take action to test constitutionality because he has an obligation to uphold the constitutionality of the law. The challenge in 1953 to find that slot machines were unconstitutional was brought by private parties in Idaho. If there is sufficient public interest, the challenge should come from the public without using the taxpayers' money.

**Mr. David Kerrick**, lobbyist for the Nez Perce Tribe deferred his time to Vice Chairman Sam Penney.

**CON**

**Mr. Samuel N. Penney**, Vice Chairman of the Nez Perce Tribal Executive Committee, spoke in opposition to HCR 35, saying it is unfortunate this is the first time the Tribe has had the opportunity to comment on legislation with a direct bearing on Tribes in Idaho. Reasons for the Tribe's opposition are outlined in Attachment 5. Mr. Penney recalls when former Attorney General Echohawk asked that the Tribe consider other economic proposals instead of gaming. Eleven proposals were submitted, none of which were accepted. Quoting Chief Joseph, he said, "I'll speak from my heart because it doesn't take many words to speak from the heart." In response to concerns about widespread gaming, Mr. Penney said only four Tribes in the nation have off-reservation gaming. In order for a casino to be built by any Indian Tribe off of the reservation, they must go through a two-part determination process that requires approval of the BIA and the concurrence of the Governor. The process, in conjunction with the required compliance with the National Environmental Policy Act, means a regulatory structure is in place to govern such issues. It is a lengthy, arduous process few Tribes are willing to go through. The economic benefits of Indian gaming cannot be overstated. \$270,000 has been paid to schools and \$14 million spent on construction projects. The Tribe will host the National Lewis & Clark event.

**PRO**

**Former Senator, Grant Ipsen**, spoke in support of HCR 35, saying he will try to focus back on the issue. This legislation is not about suing the Tribes, but about the constitutionality of the law. This situation arises from a letter requesting the Attorney General to determine the constitutionality of the Indian Gaming statutes, and requesting that he respond to special legislation. Because the AG refused to take action, the Legislature must pursue HCR 35. Everyone in both legislative bodies realizes this is normal practice and is right. Mr. Ipsen said it is not correct that a Utah Tribe will not set up a casino in Idaho. If the Utah tribe purchases land and goes through the process, there will be another casino in Idaho. This legislation just asks for a constitutional reaffirmation.

**CON**

**Ms. Nancy Eschief-Murillo**, Vice-Chairman, Fort Hall Business Council, spoke in opposition to HCR 35. She said the Shoshone-Bannock Tribe is a peace-treaty Tribe. They live in a highly agricultural area and the Fort Hall casino, unlike private casinos, gives hiring preference to tribal members. Their Tribal Gaming Ordinance regulates and controls the operation of gaming on tribal lands, and promotes tribal economic development and independence on the Fort Hall Reservation. Ms. Murillo addressed previous comments about the grant received to develop the old FMC site. She said this grant will not result in another casino, but will be used for a hotel. The FMC site was left contaminated, and will be

costly to clean up. There is a human factor the tribe considers: jobs are needed, and people need to be employed so they can enjoy life and be self sufficient and self sustaining. The Tribe agreed to settle their differences with the State of Idaho with dignity and respect, and they expect the State Legislature to do the same when addressing HCR 35 (See written testimony, Attachment 6).

**CON**

**Mr. Scott D. Crowell, Esq.**, spoke on behalf of the Shoshone Bannock Tribes in opposition to HCR 35. Before he spoke about the legislation, he explained that he is compelled to respond to a false news story in this morning's paper suggesting that the Shoshone Bannock Tribes are seeking a Boise casino. This is nonsense, bad politics and bad journalism. The Tribe asked the state to prohibit off-reservation casinos because of the Northwest Band proposals. The state said they would only prohibit off-reservation casinos in Southeast Idaho. The Tribe responded that a limited prohibition does not work; if Boise is not excluded then the Shoshone-Bannock Tribe should be the tribe to operate a casino near Boise because it is the tribe's aboriginal lands. Now leaked information has morphed into incorrect reports that the Tribe is pushing for casinos in Twin Falls, Mountain Home, and Boise.

Mr. Crowell put the pending proposal in context with recent history, discussing the events since the IGRA was passed into law in 1988 (Attachment 7). If this proposal goes forward, there will be a barrage of procedural, jurisdictional and standing attacks. Even if the state were to prevail on whether the Tribal Gaming Device is one that would be prohibited by the Constitution, that decision would not affect the legality of the compacts. Nothing about Proposition One changes the legal basis on which the Shoshone Bannock Tribes negotiated its compact.

When a Committee member asked about the procedure for authorizing gaming after 1988, it was explained that on the lands in trust, the Interior makes a two-part determination. The Governor must comply with that decision – the Governor's veto is absolute.

**CON**

**Mr. Mark Echohawk, Esq.**, representing the Shoshone Bannock Tribes, stood to argue against the purpose of HCR 35. The resolution is not a sincere unbiased inquiry into the constitutionality of two code provisions. The real purpose has more to do with a basic effort to stop Indian gaming for any reason that can be found. Idahoans voted to permit Indian gaming in Proposition One. Now a few individuals want to invalidate the laws that implemented Proposition One. One of the reasons may be the mistaken perception that Indian gaming needs to be stopped because it is dangerous to let the Tribes conduct gaming activity that isn't regulated correctly. If the state can't completely regulate gaming activities on reservations, it is dangerous to allow those activities to continue. This is incorrect because Indian gaming is one of the most highly regulated activities around. A complex system of federal, tribal and state laws affects Indian gaming and provides safeguards for everyone associated with gaming (Attachment 8).

It was asked how a member of the public could review actual gaming numbers. Mr. Echohawk said through the Freedom of Information Act from the National Gaming Commission or from the Tribes.



- CON** **Ms. Liberty D. Toledo**, Marketing Director of Shoshone Bannock Gaming, spoke in opposition to HCR 35. Ms. Toledo is a graduate of Idaho State University with a degree in Mass Communications. She received assistance to attend school from tribal programs that are subsidized through gaming revenues. She was able to gain a management position right out of college because of Indian gaming, and spoke about the knowledge and expertise employees have regarding gaming and the federal regulations. She outlined several new community partnerships the Tribe has formed through monetary donations and sponsorships (Attachment 9).
- CON** **Ms. Destiney Evening**, Shoshone Bannock Tribal Member and a Shift Supervisor for the Gaming Machine Department, spoke in opposition to HCR 35. She is married and the mother of three and has her own home. Her family has full health care benefits through her medical insurance rather than having to rely on Indian Health Service. She talked about people who come to the casino on a regular basis to socialize and be around others. This is a hard business, but she feels that HCR 35 would take away her job and she would have to apply for Welfare assistance (Attachment 10).
- CON** **Ms. December M. Ariwite**, Players Club Manager, Fort Hall Casino, spoke in opposition to HCR 35. Ms. Ariwite spoke about her employment at the casino and how she had been able to advance from bingo to her current position. The Fort Hall Casino has been the heart of the operation for the Tribe because many tribal members, elders and their families depend on the casino. She said she hopes to serve as the gaming general manager in the future because she wants to be a part of the history and success of the casino. They have 39,000 members that are enrolled in the players club system and 24,000 are Idaho residents (Attachment 11).
- CON** **Ms. Louise Dixey**, General Manager, Shoshone Bannock Gaming, spoke in opposition to HCR 35. As mentioned by the tribal leader, this measure is a direct challenge to the ability of Indian Tribes within Idaho to conduct gaming operations on their own land and to secure their own economic independence. There are 277 tribal members and direct descendants employed by Shoshone Bannock gaming. If HCR 35 is successful it would jeopardize gaming operations that provide jobs, economic benefits to all communities, and funding for education in Idaho. The payroll for the gaming operation has grown from \$5.2 million in 2001 to almost \$7.8 million in 2005. "As Indian people we understand that gaming is not the answer to all our economic needs, but it is a start" (Attachment 12).
- CON** **Mr. Wesley R. Edmo**, Council Member and Treasurer, Shoshone Bannock Tribe, spoke in opposition to HCR 35. The Shoshone Bannock Chairman's letter opposing this legislation can be found in Attachment 13. Mr. Edmo said "in America we all have freedoms and we know why we came from Europe. This is a great land of opportunity." The Shoshone Bannocks have never been compensated for their land in Idaho. He said he has taught his children "to be worthy and that oppressed they become strong." If you think reasonably about the economics in Idaho, the Tribes need something to help their people. They are farmers, craftsmen and they take care of Idaho. They are a huge player in Idaho and they are

always willing to work with people on issues. The reasonable people of Idaho spoke when voting for Proposition One.

Chairman Deal called for a short break.

**Representative Stevenson** was asked to present his closing remarks. He thanked the Chairman for allowing this debate, apologizing that the legislation on eminent domain would not be heard.

He stated that many have been in discussion all along with these issues. The Legislative Council did ask the Attorney General to look into this and that Council is made up of Leadership. Members in the House who serve on the Indian Affairs Committee, Representatives Cannon and Saylor, were notified. In response to HCR 35 being poorly written, Legislative Services has been given credit for that on many occasions. The other issue we lost site of was the constitutionality and asking taxpayers to do this. They have the same obligation to defend the Constitution as they do an initiative.

You heard how this would take away jobs, but Former Justice Bakes reminded you that the current casinos were setup in compacts and will not be affected. HCR 35 would affect additional gaming activities in Idaho. Proposition One should have been a constitutional amendment and that's what brings us here today. Sometimes in our court system, even judges take opportunities. Judges need the opportunity to decide this issue.

Chairman Deal thanked all who testified and adhered to the time limits. He advised the Committee that HCR 35 was before them.

**MOTION:** **Representative Ellsworth** moved to send **HCR 35** to the floor with a DO PASS recommendation.

**SUBSTITUTE MOTION:** **Representative Anderson** moved to HOLD HCR 35 in Committee. He spoke in favor of the motion. He said we have heard a lot of testimony and saying that evil follows gambling and gaming money follows politics is inappropriate language. He said he supports the Tribes but doesn't receive money from them. The fiscal impact is incorrect and in reality this will affect education, health care and the self-sufficiency of the Tribe.

**Representative Edmunson** spoke in support of the substitute motion, saying he is proud of the success of the Tribes have shown a great deal of economic development. The state does not want to get into the business of testing the constitutionality of every initiative.

**Representative Shepherd** spoke in support of the substitute motion because she lives in an area and knows what the conditions were before the casino was built. She recently toured the area and saw the technology center, the wellness center, and the low-cost senior housing that has been developed. The Tribes take care the young and the old.

**Representative Andrus** said it seems at some point and time the constitutionality of this code will be challenged, and therefore he is in support of the original motion.

**Representative Bilbao** spoke in support of the substitute motion, indicating he feels the Ninth Circuit Court should make the decision. For the past three years we've wanted a definition of gaming machines.

**Representative Garrett** said she came into the meeting thinking she knew how she would vote, but after tallying the arguments, she is struggling. She believes in upholding the Constitution, but she will be voting for the substitute motion.

**Representative Smylie** said he opposed the original Proposition One and doesn't support gambling. States have become addicted to the revenue and it is difficult to undo because of the funding going to education. Would like to see economic development occur in other ways. The real issue of HCR 35 is the investment of state money for counsel or encouraging private individuals to fund.

**Representative Ring** said as a pragmatist he feels it is fiscally irresponsible to give a blank check when it's not certain of the cost indicated on the SOP.

**Representative Smith** said she believes in the Tribes having gaming and other development. For many reasons she will be voting for the substitute motion.

**Representative Stevenson** clarified one thing – this is not the first time the Attorney General has been asked to defend on both sides of an issue. This resolution will not affect gaming as it is now, but in the future.

**VOTE ON THE  
SUBSTITUTE  
MOTION:**

A roll call vote was taken on the substitute motion to HOLD HCR 35 in Committee. The substitute motion passed by a 13-4 vote, with Representative Black being excused. Those voting "Aye" were Representatives Smylie, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Hart (Jacobsen), Bilbao, Shepherd(2), Smith(30), and Pasley-Stuart. Those voting "Nay" were Representatives Deal, Stevenson, Ellsworth, and Andrus.

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 10:49 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 17, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:05 A.M. with a quorum being present. There were no minutes to review. Ms. Catherine Hendrickson, House State Affairs Page, was recognized for her excellent assistance to the secretary and to the Committee members.

**H 555** **Speaker Bruce Newcomb** spoke in favor of **H 555**. The purpose of this legislation is to respond to *Kelo*, a US Supreme court case where the City of New London, Connecticut obtained property under the provisions of eminent domain and then sold it to another private entity.

This legislation is similar to H 408, except that this bill places limitations on eminent domain for private parties, urban renewal or economic development purposes. This statute doesn't limit traditional uses of eminent domain outlined in Idaho Code. **H 555** also provides for review at judicial proceedings involving the exercise of the power of eminent domain.

This legislation sets forth three requirements that must be met simultaneously before the power of eminent domain may be exercised: "(1) The property, due to general dilapidation, compromised structural integrity, or failed mechanical systems, endangers life or endangers property by fire or by other perils that pose an actual identifiable threat to building occupants; and (2) The property contains specifically identifiable conditions that pose an actual risk to human health, transmission of disease, juvenile delinquency or criminal content; and (3) the property presents an actual risk of harm to the public health, safety, morals or general welfare..."

In the original legislation, the criteria was much broader and any one of the conditions could have given the right of eminent domain. With H 555, each parcel of property must be looked at separately and the three requirements must be met before property can be condemned.

**PRO** **Senator John McGee** spoke in favor of **H 555**. This bill uses a "scalpel

rather than a machete” and does exactly what the Supreme Court asked states to do. He is proud to be a part of this effort where several parties came together to produce a good product.

- PRO**                    **Mr. Keith Allred**, representing The Common Interest, a group of citizens around Idaho, spoke in support of **H 555**. Their membership chose eminent domain as one of the top four issues for this Legislative session. A brief has been prepared and made available that represents The Common Interest’s perspectives on this bill. The full brief can be found on their website at [www.TheCommonInterest.org](http://www.TheCommonInterest.org). About 45 members have weighed in on this issue and two-thirds are in favor of this legislation. He echoed Senator McGee’s comments, saying this is a targeted, sensible response to *Kelo*.
- PRO**                    **Mr. Dick Orr**, a private citizen, spoke in support of this legislation. He said he is interested in this bill because his sister, who lives in McCall, has recently had to move her whole concrete plant and will be receiving a settlement.
- PRO**                    **Mr. Ken Harward**, representing the Association of Idaho Cities, spoke in support of this legislation. Most likely the use of the power of eminent domain would be under a city created entity. The right kind of safeguards are built into this legislation.
- PRO**                    **Mr. David Hensley**, Counsel to Governor Kempthorn, spoke on behalf of the Governor in support of this legislation.
- The *Kelo* decision created a narrowly focused issue that requires a narrowly tailored solution.
  - The Governor believes that the issue created by this case was the ability of governments using eminent domain to condemn private property without an instance of blight or deterioration and transferring that property to another private party.
  - Idaho’s narrowly tailored solution is HB 55, which prevents a situation like the one in *Kelo* from happening in Idaho by prohibiting the use of eminent domain to transfer private property to a private party unless certain safeguards are met. The findings must be pursuant to clear and convincing evidence.
  - This statute doesn’t limit traditional uses of eminent domain enumerated in Idaho Code or the Constitution – parks, government buildings, or roads, nor does it apply these safeguards if the local government retains ownership of the condemned property.
  - This legislation is the result of collaboration between the Governor, the Speaker, Senator McGee, the Attorney General and many others here today.
  - It strikes an appropriate balance between private property rights and eminent domain without undermining the utility of eminent domain as a tool for local and state government. It tempers the potential abuses of that tool by establishing safeguards.
- PRO**                    **Ms. Suzanne Schaefer**, spoke in support of **H 555** on behalf of the National Federation of Small Businesses. This organization doesn’t do anything without balloting the issues. They went around the state to seven locations and 85% of the businesses polled balloted in support of H 555. This is serious reform that is happily met with this bill.

- PRO**                    **Mr. Lloyd Knight**, Idaho Cattlemen’s Association, said their members are supportive of H 555 and what it does. The joint efforts of the Speaker, the governor and all of the others are appreciated.
- PRO**                    Mr. John Eaton, representing the Idaho Association of Realtors and the National Association of Realtors, said the members encouraged support of this legislation at all levels. What the bill does is what folks have asked, and that is to raise the bar so a similar case doesn’t happen in Idaho. This is the bill that will solve the *Kelo* case in Idaho.
- MOTION:**            **Representative Smylie** moved to send **H 555** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Speaker Bruce Newcomb** will sponsor H 555 on the floor.
- ADJOURN:**            There being no further business to come before the Committee, Chairman Deal adjourned the meeting at 9:42 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 20, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:01 A.M. with a quorum being present. The first order of business was to review the minutes of Wednesday, February 15, 2006.

**MOTION:** **Representative Ring** moved to approve the minutes of February 15, 2006 as written. The motion carried by voice vote.

Chairman Deal asked Representative Andrus to introduce the Committee's new page. Kevin Andrus, Senior at Marsh Valley High School and next to youngest son of Representative Andrus, was introduced.

**RS16006C2** **Speaker Bruce Newcomb** introduced **RS 16006C2**, legislation that he has worked on all session with Carl Bianchi and others. This bill would add executive branch lobbyists and lobbying activities to Idaho's sunshine laws to comply with the same requirements as the legislative lobbyists. Most of the lobbyists he has talked with thought this was already the law and that they were already required to report these activities.

This bill specifically requires persons who attempt to influence executive or administrative actions for compensation at the state level, to register with the Secretary of State, as do legislative lobbyists, and to file semi-annual reports of lobbying activities and expenditures.

Page 3, Lines 22-42 provide the definition for "executive official" and outline exactly which officials would be required to comply under this statute. Included are the Governor, Lieutenant Governor, Secretary of State, State Controller, State Treasurer, Attorney General, and the Superintendent of Public Instruction; agency directors and bureau chiefs, chief administrative officer of any board or commission that is authorized to make rules or conduct rulemaking activities; the membership and the executive or chief administrative officer of any board or commission that governs any of the state departments, not including public school districts; the PUC, the Idaho industrial commission, Idaho state tax commission; and members of the governing board and the executive or chief administrative officer of the Idaho housing and finance association, the

Idaho energy resources authority, and the Idaho state building authority. Many of these officials are often called upon to answer questions for lobbyists who make contact with them and those lobbyists should be under the Sunshine Law.

The heart of this legislation is found on Page 4, starting on Line 7:

*“Lobby and lobbying each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees or an executive official, to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho...”*

Page 5 outlines exemptions from registration. Lobbying activities limited to appearances before public sessions of committees of the legislature or to appearances or participation in public meetings, public hearings or public proceedings held or initiated by executive officials or their employees are exempt when testimony is documented. Once a contract is awarded and implementation has begun, changes can be made as needed – this would be exempt. Language on Page 6 states that reports are to be filed semiannually.

This is a broad sweeping bill. The primary author was Carl Bianchi, a Duke law graduate.

**MOTION:** **Representative Pasley-Stuart** moved to introduce **RS 16006C2** for printing. The motion carried by voice vote.

**RS 16073** **Mr. Ben Yursa**, Secretary of State, spoke in support of **RS 16073**, legislation that creates a Health Care Directory System within the Office of the Secretary of State and is supported by the Attorney General’s office and AARP. This legislation replaces H 468, and is the same except for Section 7. It was realized after H 468 was printed that an emergency clause needed to be added to allow gathering of private money from gifts and grants and to do an educational campaign prior to implementing the registry on January 1, 2007.

Chairman Deal asked that, if the Committee concurred, RS 16073 should be printed and placed on the Second Reading Calendar.

**MOTION:** **Representative Smylie** moved to introduce **RS 16073** for printing and to have it placed on the Second Reading Calendar. The motion carried by voice vote. **Representative Smylie** will carry the bill on the floor.

**H 671** **Mr. Tim Hurst**, Secretary of State’s office spoke in favor of **H 671**, legislation that was brought forward by Representative Frances Field. The legislation clarifies the role of poll watchers and challengers in the school elections and allows any qualified elector to vote by absentee ballot. Through a request to the school district clerk, election judges will permit one person authorized by each candidate to be at the polling place for the purpose of challenging voters and one person will be authorized to serve as a watcher to observe the conduct of the election. Challengers or watchers may work in various shifts throughout the day. However, each candidate may have only one challenger and only one watcher at the polling place at any given time.



This legislation allows a qualified school elector to vote in a school election by absentee ballot whether they expect to be absent from the district on the day of the election or not.

**Representative Frances Field** explained that an emergency clause was added to this legislation to allow the provisions to take place this year. This issue was brought to her attention at a school board election where several people were lined up to serve as watchers in shifts, but the clerk determined they had to stay eight hours instead. All other elections allow watchers to serve in shifts. This is good legislation.

**MOTION:** **Representative Smylie** moved to send **H 671** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Frances Field** will sponsor H 671 on the floor.

**H 672** **Mr. Tim Hurst**, Secretary of State's office, spoke in favor of **H 672**, legislation clarifying the role of poll watchers in the election process and providing the ability to have watchers and challengers of elections when issues only are being voted on. H 672 also clarifies procedures and responsibilities in maintaining the statewide voter registration list.

There has been some confusion about the role of the poll watcher in some counties that are still using punch cards. Section 1 of this legislation provides for one pro and one con watcher to observe the conduct of the election at each polling place. This will maintain the transparency and integrity of the election. Section 2 deals with voter registration and allows the county clerks to use the statewide voter registration system to track voter registration and notify the proper registration official when a prior registration may be canceled. Section 3 requires that when a person's registration is challenged they must re-register, and Section 4 allows the county clerks to provide voter registration lists by school district.

**MOTION:** **Representative Ellsworth** moved to send **H 672** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Miller** will sponsor H 672 on the floor.

**RS 16078** **Representative Janice McGeachin** introduced **RS 16078**, legislation that will extend the absentee voting period in city elections to accommodate our servicemen and those who may be working out of state or out of the country. Congressman Larry Craig and the father of a soldier contacted her when the son was unable to vote in the upcoming Mayor's race. Another constituent contacted her about her son not being able to vote in city elections when serving on a mission. The problem was that the current code does not allow adequate time to vote by absentee in municipal elections. Her intent was to move the date of filing back by two weeks and change the last date of publication of sample ballots to get notices out and absentee ballots to the voters.

After visiting with Mr. Tim Hurst, Secretary of State's office, and Mr. Justin Ruen, Association of Cities, they suggested other changes. This provided a good opportunity to clean up municipal election code. Eleven changes are being proposed. The following amendments were proposed by Mr. Ruen: "1. Insert "not" on page 4, line 26, so the phrase reads - "but a

*write-in vote shall **not** be counted...” and “2. Strike “next” on page 5, lines 29 and 48 so the phrase reads – “not less than twenty (20) days preceding any runoff election...”*

**MOTION:** **Representative Pasley-Stuart** moved to introduce **RS 16078** for printing. The motion carried by voice vote.

**RS 16085** **Representative Mack Shirley** spoke in support of **RS 16085**, legislation that will provide penalties that may be used for punishment of individuals who fail to report deaths as prescribed by law. Representative Shirley asked that this RS be printed and referred to the Judiciary and Rules Committee. An unfortunate situation was described that had occurred in Madison County where bodies of a mother and daughter were found dead in a home. It was determined they had been dead for about three years and the father was still living in the home and had failed to report the deaths as required by law. There are currently no penalties provided in the current law.

*This legislation provides that any person who fails to notify law enforcement of a death shall be guilty of a misdemeanor and shall be punished by up to one year in the county jail or fined, not exceeding \$1,000, or both. Anyone pleading guilty or having a second violation shall be guilty of a felony.*

**MOTION:** **Representative Shepherd (2)** moved to introduce **RS 16085** for printing and then refer it to the Judiciary and Rules Committee. The motion carried by voice vote.

**RS 15684** **Representative Lenore Hardy-Barrett** introduced **RS 15684**, legislation that proclaims April 19 of every year as Patriot’s Day in Idaho in commemoration of the opening events of the American Revolutionary War and the struggle through which the nation passed in its early days to be established as the great land of freedom in which we live today. The 1775 patriots were the “spark and passion to the Revolutionary War”, and we many not even be celebrating the Fourth of July had it not been for them. She explained this will not be an official holiday.

**MOTION:** **Representative Loertcher** moved to introduce **RS 15684** for printing and then have it placed on the Second Reading Calendar. The motion carried by voice vote. **Representative Lenore Hardy-Barrett** will sponsor the bill on the floor.

**Representative Elaine Smith** introduced **RS 16084**, saying she is in a strange position because she is not sure which restoration proposal she will support. She would just like this option to be introduced for the Committee to consider. Carl Bianchi worked with her on this resolution to build two-level wings on the East and West sides of the capitol and to get the cost of doing so. This resolution is in response to the request to bring forth other ideas and options for capitol restoration.

**Representative Edmunson** moved to introduce **RS 16084** for printing. The motion carried by voice vote. Representatives Black, Ring, Andrus, Bilbao, Snodgrass, Edmunson, Anderson and Shepherd (2) asked that their names be added as co-sponsors.

**ADJOURN:**

Chairman Deal thanked the members for their timeliness this session, saying he appreciates their cooperation. There being no further business to come before the Committee, the meeting was adjourned at 9:46 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 21, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Smylie, Smith, Edmunson, and Snodgrass
- GUESTS:** John Watts, Lobbyist, WATCO Railroad; Michael Henderson, Counsel for the Idaho Supreme Court; Brett DeLange, Deputy Attorney General; Max Vaughn, Minidoka County Assessor, Rick Skinner, Attorney; Winston Inovye, Chairman, Minidoka-Cassia Intermodal; and Gavin Gee, Director of the Department of Finance.
- Chairman Deal called the meeting to order at 9:00 A.M. with a quorum being present. The first order of business was to review the minutes of Thursday, February 16 and Friday, February 17, 2006.
- MOTION:** **Representative Ring** moved to approve the minutes of Thursday, February 16 as written. The motion carried by voice vote.
- MOTION:** **Representative Ring** moved to approve the minutes of Friday, February 17 as written. The motion carried by voice vote.
- RS 15602** **Speaker Bruce Newcomb** spoke in support of **RS 15602**, a proclamation honoring the centennial of Longfellow Elementary School. He declared a conflict of interest because his two grandsons attend Longfellow and lobbied for this legislation. Senator's Brandt's son also attends this school. Longfellow Elementary opened its doors 100 years ago and is named after the great American poet, Henry Wadsworth Longfellow. Speaker Newcomb said he has spent a lot of time at this school attending school activities. On behalf of the two best lobbyists, his grandsons, he asked the Committee's support to help designate February 27, 2006 as Longfellow Elementary School Day.
- MOTION:** **Representative Ring** moved to introduce **RS 15602** for printing and to have it placed on the Second Reading Calendar. The motion carried by voice vote.
- H 590** **Speaker Bruce Newcomb** spoke in support of **H 590**, legislation

pertaining to the bonding authority of county-based intermodal commerce authorities. The bill incorporates the recommendation of the Bonding Counsel. Bond counsel and bond laws are very difficult to understand. Mr. Skinner has been asked to address the changes that were suggested and the changes that were made to help facilitate management of the intermodal authorities.

**PRO**

**Mr. Rick Skinner**, Attorney, said bond counsel's concern was that the intermodal authorities could issue bonds pursuant to Section 3B, Article VIII of the Constitution and this bonding authority was authorized in the 1970s when the Boise redevelopment renewal areas were created. This authority had not been reviewed and updated.

An amendment was suggested to authorize the legislature to create local county-based intermodal commerce authorities. Other amendments were made to (1) require the passage of a county ordinance by commissioners, after a public hearing, to exercise the powers county commissioners grant to intermodals. as apply to urban renewal agencies; (2) make clear that property held by an intermodal is public property; (3) clarify requirements for intermodal commissioners to serve or be removed from office; (4) establish the proper authority for issuance of revenue bonds; and (5) specify that property held by an intermodal commerce authority, as an entity of the county, is tax exempt.

**PRO**

**Mr. Max Vaughn**, Minidoka County Assessor, co-chaired the implementation committee for the Minidoka and Cassia Counties intermodal commerce authority. In the process of conducting business they ran into questions for bond counsel. This legislation resulted from a joint effort by the state bond counsel and the legal staffs of banks and other institutions. The legislation contains no substantive changes. In the urban renewal language there is no taxing, financing or eminent domain authority.

A Committee member asked who issues the bonds and where the money comes from – does the public bear the burden? It was clarified that revenue bonds do not create a burden on the cities, counties or the state.

**MOTION:**

**Representative Black** moved to send **H 590** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Stevenson** will sponsor H 590 on the floor.

**H 621**

**Mr. Brett DeLange**, representing the Attorney General Lawrence Wasden, spoke in support of **H 621**. Idaho's Complementary Act requires reporting by all who are not a part of the agreement. This legislation ensures that companies make the proper escrow deposits. In this legislation it is clarified that "stamping agent" means a person who is authorized to wholesale cigarettes or is required to affix tax stamps as well as any person who pays a tobacco products tax on "roll your own" tobacco. This legislation doesn't raise or extend taxes, but makes sure that all appropriate parties report their cigarette and roll-your-own sales as required.

**MOTION:** **Representative Ellsworth** made a motion to send **H 621** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Edmunson** will sponsor H 621 on the floor.

**RS 16100** **Mr. Gavin Gee**, Director, Department of Finance, spoke in support of **RS 16100**, legislation that amends the Idaho Residential Mortgage Practices Act to permit Idaho licensed mortgage brokers, mortgage lenders, and mortgage loan originators to readily convert to a uniform nationwide mortgage licensing system is approved and adopted. Mr. Gee said he had personally been involved with this process for three years, and the new system will provide a much better database. The system is being patterned after the securities brokerage firms system.

This legislation was printed earlier as H 588, but a large multi-state operator recommended changes. The changes made were restatements of existing laws providing for background checks for applicants and providing for information gathered to be exempt under the Public Records Act. The amendments made have addressed the concerns of the Idaho Mortgage Brokers and the multi-state operator. **Mr. Mike Larsen**, Consumer Finance Bureau Chief, who worked on the legislation, was present.

**MOTION:** **Representative Black** moved to introduce **RS 16100** for printing and to refer it to the Business Committee. The motion carried by voice vote.

**RS 15979** **Mr. Michael Henderson**, Idaho Supreme Court, spoke in support of **RS 15979**, legislation that would help protect judges by making their personal information less accessible. This legislation simply adds a subsection to Section 9-340C of the Public Information Act, Page 4, Lines 24-28. Several incidents have highlighted the need for this legislation, including the killings of the husband and mother of federal Judge Joan Lefkow, apparently by a disgruntled litigant. Personal information such as residential address, telephone number or descriptions, plans or blueprints of any residence for an active or retired supreme court justice and judges would be protected. This would not prevent those with a professional need to have access to the information.

**MOTION:** **Representative Miller** moved to introduce **RS 15979** for printing and to refer it to the Judiciary and Rules Committee. The motion carried by voice vote.

**RS 16065** **Mr. Michael Henderson**, Idaho Supreme Court, spoke in support of **RS 16065**, legislation that resulted from ideas of those who deal with drug courts. This legislation would allow graduates of drug courts and mental health courts to seek the relief provided by this statute if they successfully complete the court program and comply with all the conditions of their probation after graduation. Persons admitted to drug or mental health courts have often violated their probation. It is those violations that lead to their admission into these courts, which provides them an opportunity to turn their lives around. Allowing these persons to have their convictions set aside or reduced following satisfactory completion of these

courts would provide an added performance incentive and would enhance the effectiveness of these courts. The district judges agree with this legislation.

**MOTION:** **Representative Shepherd (2)** moved to introduce **RS 16065** for printing and to refer it to the Judiciary and Rules Committee. The motion carried by voice vote.

**RS 15911** **Representative Frances Field** spoke in favor of **RS 15911**, saying this is a very straight forward memorial. The memorial offers the support of the Idaho Legislature to the United States Congress in their efforts to ask for greater accountability by federal judges. Many feel there should be greater accountability of judges, especially in the ninth circuit court.

**MOTION:** **Representative Miller** moved to introduce **RS 15911** for printing and to refer it to the Judiciary and Rules Committee. The motion carried by voice vote.

**RS 16055** **Representative Rich Wills**, introduced **RS 16055**. He declared Rule 38 because his daughter is married to an airman. This legislation allows military spouses to apply and be eligible for unemployment benefits when they move with their husbands or wives who are in the active military. On Page 5, Lines 28-34 language is added that provides that: *"No claimant who is otherwise eligible shall be denied benefits ...for voluntarily leaving work to relocate away from his normal labor market area with his military-connected spouse if the spouse has received an order to move to a new duty location for more than 179 days. ..."military-connected" means active duty, national guard or reserve members of the armed services of the United States.*

Representative Garrett asked if other states do this, and Representative Wills responded that they do, and this legislation is patterned after what other states have done.

Representative Pasley-Stuart asked Representative Wills if he was aware that a large group made up of legislators, IACI, Micron, retailers and others considered this issue at length this summer, and unanimously denied authorizing this benefit. He said he was not. This committee was not anti-military, but felt that employment insurance is not for people who voluntarily transfer, but for those who are required to transfer.

Representative Black asked why the 179 days. Representative Wills said the main purpose was that if the transfer was for less than a six-month tour, the spouse doesn't usually accompany the active military spouse.

**MOTION:** **Representative Black**, moved to have **RS 16055** introduced for printing and returned to this Committee for consideration.

**SUBSTITUTE MOTION:** **Representative Pasley-Stuart** made a substitute motion to return **RS 16055** to the sponsor. She said after thoroughly considering this issue

and rather than take up this Committee's time, the RS should be returned to the sponsor. Representative Stevenson spoke in support of the substitute motion, indicating he feels that unemployment was not intended for this purpose. The employer is the one who must bear the burden.

**VOTE ON THE  
SUBSTITUTE  
MOTION:**

A vote was called for on the substitute motion to return **RS 16055** to the sponsor. The substitute motion passed by a voice vote, and the RS will be returned to the sponsor.

**RS 16096**

**Representative Loertscher** explained to the Committee that **RS 16096** is a replacement for H 573. After H 573 was printed, it was discovered that in order for the central committee's to meet this year, an emergency clause needed to be added and this RS will do that. The character of the districts in Idaho have changed, and in the large districts it is hard to find a central location where central committee meetings can be held.

**MOTION:**

**Representative Andrus** moved to introduce **RS 16096** for printing.

**SUBSTITUTE  
MOTION:**

**Representative Miller** made a substitute motion to introduce **RS 16096** for printing and to send it to the Second Reading Calendar. The substitute motion passed by a voice vote.

**RS 16063**

**Representative Hart** introduced **RS 16063**, stating this is a similar bill to H 218 that the Committee saw last year. This legislation provides for the transmittal of public records in electronic form and provides for the requestor to respond in electronic form. Paper forms can still be requested. Last year, several agencies had concerns about H 218 and those concerns were worked on during the summer with the Historical Society and Corrections. This legislation makes clear that if the record was created using an old mainframe, the person requesting the information would have to pay the costs of retrieving the data. The Cities and Counties have also signed off on this legislation.

**MOTION:**

**Representative Stevenson** moved to introduce **RS 16063** for printing. The motion carried by voice vote.

**RS 16104**

**Representative Margaret Henbest** introduced **RS 16104**, legislation requiring that the state epidemiologist or the county coroner cause an autopsy to be performed in cases in which Creutzfeldt-Jakob Disease (CJD) is suspected. The findings of such autopsies are to be reported to the Department of Health and Welfare. In April 2005, Idaho made CJD a reportable disease. The incidence of CJD is about 1 in a million. Idaho had 9 cases reported in a year. The definite diagnosis can only be obtained by an autopsy. CJD is a sporadic disease similar to mad cow disease or bovine disease which causes neuro-degeneration and death. The agent is infectious and can be transmitted so the autopsy must be performed in a careful manner. This legislation supports having the autopsies performed through Case Western University with the costs being paid by the Center for Disease Control.



**MOTION:** **Representative Loertscher** moved to introduce **RS 16104** for printing and to refer it to the Health and Welfare Committee. The motion carried by voice vote.

**ADJOURN:** Chairman Deal reminded the Committee that we would meet at 8:30 A.M. tomorrow. There being no further business, the meeting was adjourned at 9:56 A.M.

Representative Bill Deal  
Chairman

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 22, 2006
- TIME:** 8:30 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie (Luker), Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** None
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 8:32 A.M. with a quorum being present. Acting Representative Lynn Luker was introduced. He will be sitting in for Vice Chairman Smylie the rest of this week.
- RS 16101** **Mr. John Mackey**, Idaho Association of Insurance & Financial Advisors, spoke in favor of **RS 16101**. Current statutes prohibit Idaho-licensed life, property or casualty insurers or Idaho-licensed insurance producers from offering or providing, to an applicant or policyholder, "anything of value" that is not specified in the insurance contract. **RS 16101** provides that life, property and casualty insurers and their producers should be permitted to provide items to their applicants and policyholders when such items have an aggregate value of fifty dollars or less.
- MOTION:** **Representative Snodgrass** moved to introduce **RS 16101** for printing and to refer the bill to the Business Committee. The motion carried by voice vote.
- RS 16002** Chairman Deal informed the Committee that **RS 16002** will be heard at a later date.
- RS 16019** **Representative Elaine Smith (30)** introduced **RS 16019**, legislation defining "haircutting" and "haircutter" and setting forth the requirements for a haircutter license and for training requirements. This legislation was brought by the Hair Stylist Association and if printed, it should be referred to the Business Committee. The Idaho Cosmetology Association asked that the current statute be amended adding the new definitions on Page 3, the increased hours on Page 4, the curriculum change on Page 5, the training requirements to comply with board rules on Page 6, and the examination fees spelled out on Page 12.
- MOTION:** **Representative Miller** moved to introduce **RS 16019** for printing and to refer the bill to the Business Committee. The motion carried by voice vote.
- RS 16132** **Representative Kathy Skippen** introduced **RS 16132**, legislation that is

part of six resolutions supporting Medicaid reform. RS 16132 encourages the Department of Health and Welfare to match mental health benefits to client needs to ensure that resources are directed to those Idahoans who most need Medicaid services. This legislation proposes to reform Medicaid to provide services to those who need services, but to do this in a fiscally responsible way – mental health services not be provided to those who do not need services.

- RS 16132**            **Representative Ring** moved to introduce **RS 16132** for printing and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.
- RS 16133**            **Representative John Rusche** introduced **RS 16133**, legislation that encourages the Department of Health and Welfare to implement programs that integrate financing for prescription drugs excluded from coverage under Medicare Part D. Financing Medicaid coverage for these drugs through providers of Medicare drug benefits will result in more coordinated care and delivery of prescription drug benefits to individuals dually eligible for Medicaid and Medicare. Cost efficiencies should result in savings to the Medicaid program, and the Department will report the results of such programs to the Legislature.
- RS 16133**            **Representative Ring** moved to introduce **RS 16133** for printing and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.
- RS 16136**            **Representative Pete Nielsen** introduced **RS 16136**, legislation that creates an atmosphere of responsibility by encouraging the Department of Health and Welfare to implement premiums for those Medicaid participants in the proposed state plan for Low-Income Children and Working-Age Adults who have family incomes above 133% of federal poverty. Participant cost sharing is an important tool for modernizing Medicaid benefit design. This is a workable program to rein in costs and result in a \$318,675 savings in 2007.
- RS 16136**            **Representative Snodgrass** moved to introduce **RS 16136** for printing and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.
- RS 16131**            **Representative Tom Loertscher** introduced **RS 16131**, legislation encouraging the Department of Health and Welfare to pursue selective contracting for certain Medicaid services and supplies in order to increase the purchasing power of Medicaid funds. Taking advantage of the economy of scale and contracting with other providers will result in savings to the Medicaid program – it is estimated there will be a savings of \$189,000 in 2007.
- When asked how the figure of \$189,000 was arrived at, it was clarified this was a very conservative estimate and was based on just one category of supplies.
- RS 16131**            **Representative Ellsworth** moved to introduce **RS 16131** for printing and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.

**RS 16135**                    **Representative Kathie Garrett** introduced **RS 16135**, another companion bill to Medicaid reform. This legislation recognizes the importance of Medicaid's role as the health services payer of last resort for Idahoans with low incomes and/or special needs and encourages the Department of Health and Welfare to require Medicare-eligible individuals to enroll in Medicare as a condition of eligibility for Idaho Medicaid. This requirement should result in savings of about \$640,000 in fiscal year 2007.

**RS 16135**                    **Representative Ring** said this is a great idea and moved to introduce **RS 16135** for printing and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.

**RS 16088**                    **Representative Jim Clark** introduced **RS 16088**, legislation dealing with local land use planning. In 1999, a specific amendment was made to the Local Land Use Planning Act, allowing members of governing boards to testify at planning and zoning commissioner hearings on matters of interest to them, provided they acknowledged that due to a conflict of interest they will not participate in the board's decision regarding such matters. This legislation proposes an amendment on Lines 24-27 that will insure that planning and zoning commissioners would not be allowed to testify on matters before the Board; therefore, being disallowed from "pitching" a project on behalf of a contractor.

**MOTION:**                    **Representative Stevenson** moved to introduce **RS 16088** for printing. The motion carried by voice vote.

**RS 16134**                    **Representative Janice McGeachin** introduced **RS 16134**, legislation that encourages the Department of Health and Welfare to develop a Long-Term Care Options Counseling program as part of the Aging Resource Center initiative. Creating this program promotes alternatives to Medicaid-financed long-term care and should result in savings to the Medicaid program in the amount of \$79,500 in fiscal year 2007.

Long-term care is the 4<sup>th</sup> largest Medicaid cost, and as baby boomers retire, that cost will grow and explode. The use of reverse mortgages and similar vehicles for seniors to finance their own long-term care promotes individual responsibility for long-term care costs and avoids the need for publicly funded support. A 3-year pilot program and staff centers are being proposed. A federal grant is available for start-up costs and some general funds will be needed to fund additional staff. Fourteen people would be sought to participate in the pilot program by taking advantage of reverse mortgages to pay for their care.

**MOTION:**                    **Representative Loertscher** moved to introduce **RS 16134** for printing. The motion carried by voice vote.

**ADJOURN:**                    There being no further business, the meeting was adjourned at 9:04 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 23, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below. Chairman Deal welcomed Loa Perin, volunteer for AARP, whose assignment is state affairs. Loa has frequently attended our meetings this session.

Chairman Deal called the meeting to order at 9:00 A.M. with a quorum being present. The first order of business was to review the minutes of Monday, February 20, 2006.

**MOTION:** **Representative Bilbao** moved to approve the minutes of February 20, 2006 as printed. The motion carried by voice vote.

**RS 16105** **Mr. Keith Donahue**, Idaho Department of Environmental Quality, introduced **RS 16105**. The Legislature passed the Idaho Land Remediation Act in 1996 for the purpose of eliminating public health risks and providing economic benefits to local communities by allowing contaminated, blighted properties to become sources of employment, housing, recreation and community open-space. Since that time only two parties have cleaned up properties under this act, both of which were responsible for the contamination at issue.

Mr. Donahue worked with **Mr. Jim Yost** of the Governor's office to develop new legislation offering incentives for private individuals who participate in cleanup and redevelopment projects. The pilot initiative proposed by this legislation offers 10 high priority projects where there is clear reinvestment use, but contamination is stopping the cleanup. These projects would be monitored by DEQ, and DEQ would submit the financial information. There would be a 70% to 30% ratio used with a maximum of \$150,000 in Community Reinvestment Rebates. A private party is entitled to the maximum rebate only after expending \$215,000 conducting a DEQ-approved cleanup action at a high priority site.

There will be no fiscal impact in 2007, and the initiative's maximum potential impact on the state's general fund is \$1.5 million over a 4-year period. DEQ will gather data on the projects to determine the state and local benefits provided by the projects.

In response to Committee questions, Mr. Donahue clarified the following:

- These projects are not superfund projects – an example would be petroleum contamination where the cost of digging out an old tank is about \$50,000.
- The individual does not have to reach the \$215,000 threshold before they can recoup the 70%.
- Under current legislation, incentives are offered to cities and counties and they allow for a cooperative effort and tax exemptions. This legislation encourages parties who did not cause the contamination to participate.
- Sites contaminated by orchard waste would be eligible. Individuals can contact DEQ if this legislation passes.

Representative Anderson disclosed under Rule 38 that he owns an abandoned gas site.

**MOTION:** **Representative Snodgrass** moved to introduce **RS 16105** for printing and to refer the bill to Commerce and Human Resources Committee.

In response to a question about what cities and counties do about abandoned property that has contamination, Mr. Donahue said they should contact DEQ because there are a number of tools available to them. There is about \$400,000 available annually for government entities. When asked why, if printed, this legislation will be heard in Commerce and Human Resources, it was clarified these sites are considered development sites, not environmental sites.

**VOTE:** A vote was called for on the motion to introduce RS 16105 for printing. The motion carried by voice vote.

**RS 16107** **Mr. Roy Eiguren**, Attorney representing CNA, spoke in support of **RS 16107**, legislation that applies identical insurance and bonding requirements to all electricians, plumbers, and HVAC contractors that are licensed under Idaho Code. If printed, this RS will be referred to the Business Committee. Current Idaho Code provisions provide different requirements for different trades. The new bonding requirements in this legislation provide that a consumer can obtain up to \$10,000 for the failure of an electrician, plumber, or HVAC contractor. The contractor would have to have (1) proof of worker's compensation insurance in the amount of \$300,000; (2) proof of liability insurance, and (3) a surety bond in the amount of \$10,000 payable to a consumer if the contractor fails to meet requirements of applicable codes or rules. Similar legislation was presented last year, but the house rejected it after the Senate amended it.

Mr. Eiguren asked that amendments be made before printing. On Page 2, Line 46 delete "including the" and delete lines 47-49. On Page 3, Lines 42-44 delete lines beginning with the sentence, "HVAC". The SOP needs to be changed to clarify that the \$300,000 applies to liability insurance.

**MOTION:** **Representative Ring** moved to introduce **RS 16107** for printing after the amendments are made on Pages 2 and 3 and on the SOP. The motion carried by voice vote.

**H 673** **Mr. Scott Turlington**, Tamarack Resorts, LLC, spoke in support of **H 673**. Mr. Turlington introduced **Ms. Amy Koenig**, Vice President of Marketing, Tamarack Resorts. Over a year ago Tamarack began pursuing

this legislation which would provide for the licensing of liquor for a beverage, dining or lodging facility located within the boundaries of a year-round resort. There was nothing in current code to allow additional licenses for restaurants and hotels so Mr. Turlington took it upon himself to draft legislation, and worked with Alcohol Beverage Control on setting a fee schedule. Currently Tamarack pays \$250 for their liquor license and they have agreed to pay \$2,500 for the license for Tamarack and \$1,500 for each of the lessees at Tamarack. Agassi Graf Development will be developing a 225-room hotel on Tamarack property, and the hotel will be managed by Fairmont Hotels and Resorts. The first liquor license would be used at the hotel. The second set of licenses would be for Tamarack Village, a 37,000 square foot complex with shops and a fine dining restaurant. It is anticipated that only the restaurant would be issued a liquor license. Tamarack Resorts would manage the liquor licenses and would prohibit the licenses from being transferred.

Mr. Turlington addressed questions and provided the following information:

- A question was asked at the print hearing about the cost of liquor licenses in the Donnelly area – a facility itself sold for \$600,000 and it was assumed a large portion of the cost was for the liquor license since the property was very small.
- A question was asked if the liquor license only applies to hard liquor and if Tamarack would still be going through the county for beer and wine – the answer was yes.
- It was asked why the proposal does not have a numerical limit on licenses – this was discussed with Alcohol and Beverage Control, but because Tamarack will have control of the liquor licenses, it was felt it was not necessary. They also felt it was better to have guests be able to have a few drinks on the property and not be driving. There will be stringent guidelines of who will be leasing facilities and the higher prices for licenses will allow monitoring.
- It was asked about other resorts who could qualify under this legislation for licenses – it is understood there are currently two resorts who could qualify, Tamarack and Sun Valley.

**MOTION:**

**Representative Ring** moved to send **H 673** to the floor with a DO PASS recommendation. He said he knows people who like to “belt down” 2-3 martinis before dinner, and if a person who has been drinking can walk down to the village rather than driving into McCall it is much safer for all.

Representative Pasley-Stuart asked about the average cost of liquor licenses, and Mr. Turlington said he has not researched this because Tamarack currently qualifies under the current code.

Representative Shepherd (2) said she had a concern when this legislation was introduced because Alcohol and Beverage Control only has one person monitoring licenses. Lieutenant Clements has given his approval and helped craft the legislation so, she will be voting in favor of H 673.

Representative Anderson said several other entities are concerned the price of their licenses may go up also. Mr. Turlington explained that if they currently are licensed under a specific license, nothing will change, but if they chose to move to a year-round resort license the cost would increase.

Representative Smith asked about Sun Valley and Mr. Turlington said he is not sure how their license is set up, but they have the option of taking advantage of this proposal or staying with what they currently have.

**VOTE:** A vote was called for on the motion to send H 673 to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Loertscher asked to be recorded as voting “no”. **Representative Snodgrass** will sponsor **H 673** on the floor.

**H 694** **Mr. Rich Hahn**, Idaho Power Company, spoke in support of **H 694**. Idaho is one of the fastest growing states and utility companies are trying to keep up with the growth. Idaho Power had over 17,000 new customers last year. Currently utilities don't have the ability to file with the PUC for a return on construction work or on property held for future use. This legislation amends Idaho Code Section 61-502A to provide the PUC with the authority to approve and set just, reasonable and fair rates for energy and other utility facilities under construction and for property that is acquired by a utility and held for future use, such as a substation location.

After this legislation was presented earlier in the session, the PUC asked that an amendment be added to allow the commission to determine whether any gain or loss occurring from the sale or other disposition of the property, not needed for utility service, may be included in the utility's rate. This legislation compliments Idaho Power's planning process and the their efforts working with the community advisor group on to “build out” in the Treasure Valley.

**MOTION:** **Representative Black** moved to send **H 694** to the floor with a DO PASS recommendation. Representative Ring disclosed under Rule 38 that he personally owns stock in Idaho Power and he will be voting in favor of the bill. The motion carried by voice vote. **Representative Black** will sponsor **H 694** on the floor.

**H 695** **Mr. Michael Kane**, Idaho Sheriff's Association, spoke in support of **H 695**. **Representative Wills** and **Teresa Baker**, Ada County Prosecutors were present in support of this legislation. Mr. Kane indicated that many on the Committee had worked on the legislation that formed the 911 Commission and determined that the same fee being applied to wire lines would be applied to cell phones to fund 911. There were lots of discussions at that time about how the money would be collected and spent. H 695 is being brought to clarify that 911 fees are not to be used to pay for dispatching. With the current legislation an argument can be made either way as to whether dispatchers can be paid using 911 fees. Right now, 36 of the 46 centers are not paying dispatchers using these funds. This legislation does allow for persons charged with management duties pertaining to hardware and software applications pertinent to 911 centers to be paid using the 911 fees.

Mr. Kane indicated that the entities who are affected by this legislation know it is coming and they will have to shift funds. The counties are okay with this.

**MOTION:** **Representative Bilbao** moved to send **H 695** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Wills** will sponsor **H 695** on the floor.



Chairman Deal took a few minutes to let the committee know that after meeting with the newspaper representatives and not being able to come to a middle ground or negotiate amendments, he decided not to burden the Committee with considering the two conflicting bills that are almost identical to last year's bills. He explained that the lottery bill defining slot machines will also be held. Next Tuesday the Committee will consider the four proposals for Capitol restoration.

The Chairman thanked the Committee for their hard work and their timeliness.

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 9:56 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES

**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** February 24, 2006

**TIME:** 9:00 a.m.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Ellsworth, Garrett, and Pasley-Stuart

**GUESTS:** **Dick Rush, Steve Millard, Margaret Henbest**

**Chairman Deal** called the meeting to order at 9:06 a.m. A quorum was present. There were no minutes to approve.

**Chairman Deal** directed the committee to a memo in their packets from Carl Bianchi, Director of Legislative Services, which gives comparison information on the four concurrent resolutions options for restoration of the Capitol.

**RS16145** **Mr. Steve Millard**, representing the Idaho Hospital Association, presented RS16145. He stated that this bill is a replacement bill for one that was in Health and Welfare earlier. Changes were needed and they found it easier to bring a new RS rather than amend the bill. Idaho Code 66-301 concerns the hospitalization of person's with mental illness. A problem arises under the current statute when a gravely disabled patient (one who poses a risk to themselves or others) refuses care or seeks to leave a facility. This legislation will clarify certain statutory provisions and authorize hospitals to detain a gravely disabled person for 24 hours, giving Health and Welfare an opportunity to conduct an exam and initiate appropriate court proceedings if necessary.

**MOTION:** **Representative Loertscher** made a motion to send RS16145 for introduction and refer it to the Health and Welfare Committee. **Motion approved.**

**RS16119** **Representative Andrus** presented RS16119. He stated that this is a trailer bill to Mr. Speaker's bill H555 which says on line 31 of H555 "unless" which means there can be a taking. This trailer bill tightens this up. Line 35-38 of RS16119 deals with agricultural operations. It gives provisions to the county to take care of the blighted areas.

**MOTION:** **Representative Bilbao** made a motion to send RS16119 for introduction. **Motion approved.**

**RS16142** **Chairman Deal** reported that RS16142 will be heard on Monday.

- RS16108C1**      **Representative Stevenson** presented RS16108C1. Representative Stevenson said that at the end of the session last year Resources and Conservation was dealing with water bills to bring in ground water irrigation. This RS addresses this issue. It clarifies membership for non-irrigators; to provide that a nonirrigator who is a member of a ground water district or whose ground water rights are appurtenant to property located within a ground water district shall be entitled to credit for the contribution made by that nonirrigator's mitigation plan towards the district's mitigation obligation; to allow IDWR to review assessments on nonmember participants for fairness; and to provide for the equitable petition of exclusion of lands from a ground water district by a nonirrigator.
- MOTION:**      **Representative Black** made a motion to send RS16108C1 for introduction and refer it to Resources and Conservation Committee. **Motion approved.**
- RS16109**      **Representative Stevenson** presented RS16109. This legislation amends existing law relating to when the holders of certain ground water rights shall be deemed nonmember participants solely for mitigation purposes in a ground water district pursuant to the provisions of Section 42-5259, Idaho Code; to provide that the holder of such a ground water rights shall be provided reasonable notice and the opportunity to join a ground water district solely for mitigation purposes; and to provide that the Director of the Department of Water Resources has the right to proceed with any appropriate action or remedy against such ground water right if the holder of such water right elects not to join a ground water district and does not have an approved mitigation alternative.
- MOTION:**      **Representative Smith** made a motion to send RS16109 for introduction and refer it to the Resources and Conservation Committee. **Motion approved.**
- RS16156**      **Representative Henbest** presented RS16156. This legislation creates a new section in Chapter 10, Title 56 which directs the Department of Health and Welfare to create within the Department a Health Quality Planning Commission. Members of that commission would be appointed by the Governor and be comprised of representatives of the public and private sectors and expertise in health information technology, clinical quality and patient safety. The Commission has the responsibility of reporting to the Director and the Legislative Health Care Task force its final recommendation related to the development of uniform, statewide, flexible and interoperable health information technology system, and to recommend a mechanism for the adoption of certain best practices in clinical quality assurance, patient safety standards, and reporting.
- MOTION:**      **Representative Smith** made a motion to send RS16156 for introduction and refer it to the Health and Welfare Committee. **Motion approved.**
- SCR123**      **Chairman Deal**, presented SCR123 in the absence of the bill's sponsor **Representative Eskridge**, who was in JFAC. This Senate Concurrent Resolution recognizes Olympic athletes that hail from Idaho and wishes them well in the 2006 Torino, Italy, Winter Olympic Games.
- MOTION:**      **Representative Ring** made a motion to send SCR123 to the second

reading calendar. **Motion approved.**

**ADJOURN:** **Chairman Deal** informed the committee they would meet at 9 a.m. on Monday.

There being no further business to come before the committee, the meeting was adjourned at 9:29 a.m.

---

Representative Bill Deal  
Chairman

---

Shani Murray  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** February 27, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Anderson

**GUESTS:** Please refer to the Committee sign-in sheets and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The first order of business was to review the minutes of Tuesday, February 21 and Friday, February 24, 2006.

**MOTION:** **Representative Bilbao** moved that the minutes of February 21, 2006 be approved as printed. The motion carried by voice vote.

**MOTION:** **Representative Miller** moved that the minutes of February 24, 2006 be approved as written. The motion carried by voice vote.

**H 707** **Speaker Bruce Newcomb** spoke in support of **H 707**, legislation that adds executive branch lobbyists and lobbying activities to Idaho's sunshine laws. Currently, individuals who are paid to contact legislators outside of public sessions of legislative committees, must register with the Secretary of State and file reports of expenditures on lobbying activities. H 707 requires persons who attempt to influence executive or administrative actions for compensation at the state level to register with the Secretary of State.

Page 3, Lines 22-42 provide the definition for "executive official" and outline exactly which officials would be required to comply under this statute. Included are the Governor, Lieutenant Governor, Secretary of State, State Controller, State Treasurer, Attorney General, and the Superintendent of Public Instruction; agency directors and bureau chiefs, chief administrative officer of any board or commission that is authorized to make rules or conduct rulemaking activities; the membership and the executive or chief administrative officer of any board or commission that governs any of the state departments, not including public school districts; the PUC, the Idaho industrial commission, Idaho state tax commission; and members of the governing board and the executive or chief administrative officer of the Idaho housing and finance association, the Idaho energy resources authority, and the Idaho state building authority. Many of these officials are often called upon to answer questions for lobbyists who make contact with them, and those lobbyists should comply with the sunshine laws.

Page 4, Lines 18-25 clarify that the following activities are exempt:

(1) communications or negotiations after the award of a bid or contract; (2) communications involving ongoing legal work and negotiations conducted by and with attorneys for executive agencies; (3) interactions between parties in litigation or other contested matters; (4) communications among and between members of the legislature and executive officials and their employees; or (5) by state employees while acting in their official capacity. Page 6 outlines the requirements for the semi-annual reporting.

Basically the purpose of this legislation is to give a “thorough sunshine” on the executive branch. The need for this is an outgrowth of what has been going on in Congress. It was the contention of most that the sunshine laws already apply to executive lobbyists, but that is not the case.

Idaho is in the business of very large contracts and is not immune from having CEOs negotiate contracts on the state level. This legislation will help provide an information base to keep track of what is going on in government. Neither the Legislative Budget Office nor the DFM are covered by this legislation because they do not write or negotiate contracts.

**MOTION:** **Representative Pasley-Stuart** moved to send **H 707** to the floor with a DO PASS recommendation. The motion carried by voice vote. Speaker Newcomb asked that House Leadership and Representative Clark be listed as sponsoring H 707 on the floor.

**RS 16142** **Mr. Ken McClure**, Idaho Telephone Association, spoke in support of **RS 16142**. The Idaho Telephone Association represents the small rural telephone companies in Southern Idaho. He reminded the Committee that last year after they passed the Qwest bill they were told there was more to be done. This is a new piece of legislation, but the concept is not new.

Technology is changing so rapidly and the statutes have not kept up. The original statutes were adopted in 1913 and have been updated through piecemeal legislation. Significant changes were made in 1988 and 2005. This legislation updates and recodifies the Idaho telecommunications laws.

Until the breakup of “MA Bell” in 1983, there were explicit ways to absorb the extra costs in rural or high-cost areas. In 1988 a Universal Service Fund was established to ensure those companies supplying service in rural areas would receive explicit support through end user and access surcharges. The company that initiates the call compensates the end supplier – the originating carrier has no agreement with the users at all. Technology is to the point that the way the Universal Service Fund is set up is problematic because users can bypass the access charges. An analysis done by Albion Telephone indicates that over half of the calls can’t be charged terminating surcharges, which removes the reliance on access charges.

This legislation will change the mechanism through which the Universal Service Fund is funded and will change the criteria for obtaining support from that fund. The PUC determines the cost of service and the revenue the company will generate, and if there is a shortfall, the balance is made up through the Universal Fund. This bill would allow those who do not need to rely on the Universal Fund to deregulate themselves. The changes being made are designed to regulate how companies coordinate with one

another. This legislation updates the telecommunication statutes in a technologically neutral manner.

Mr. McClure provided the following comments in response to questions:

- In drafting this legislation, they have remained faithful to the legislation passed in the last 10 years and have been very careful not to undo those decisions.
- There are a lot of moving parts in the industry and an enormous amount of time has been spent to get the moving parts to stop. If you are currently providing services in Idaho there is no change.
- One provision the wireless companies do not care for is that a charge will be made on the end use side to help pay for a portion of the Universal Service Fund. Some think this is okay and others do not.
- PUC still acts as the overseer so this is not a blank check. If you use the fund you must account for that.
- The affected parties have not all signed off on this legislation – there will be opposition to the legislation. There have been about 10 drafts circulated and most of the concerns have been surrounded.
- Cell phone users will see a surcharge on the bill itself where that cost has been hidden before.

**MOTION:** **Representative Stevenson** moved to introduce **RS 16142** for printing. The motion carried by voice vote.

**H 711** **Representative McGeachin** spoke in support of **H 711**, legislation that encompasses a number of technical changes to the municipal elections statutes. The original intent of this legislation was to provide more time for members of the military serving overseas to vote by absentee ballot. Requiring the ballot to be prepared not less than 35 days prior to the election will allow an additional two weeks for someone to receive the absentee ballot. The state and national elections require that the ballot be prepared 45 days prior to the election. As this legislation was worked on, it became apparent that other dates needed changing. Based on the recommendations of the Association of Idaho Cities and from the Secretary of State's office, this legislation addresses those changes. This legislation has been signed off on by all levels of city, county and state governments.

It was questioned whether the change on Page 3, Lines 46-47 moves the date closer to the election rather than allowing additional time. Representative McGeachin said the purpose of that change was to provide greater uniformity with other elections.

**PRO** **Mr. Justin Ruen** spoke in support of **H 711** saying the intent of this legislation is to extend the time available to obtain an absentee ballot to 35 days. Mr. Ruen provided a summary of the legislation outlining the 11 changes being made to the municipal elections statutes (Attachment 1).

**MOTION:** **Representative Black** moved to send **H 711** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative McGeachin** will sponsor H 711 on the floor.

**H 718** **Representative Phil Hart** spoke in support of **H 718**. This legislation was before the Committee last year as H 218. The State Historical Society, the Attorney General's office, and the Department of Corrections had concerns

at that time. H 718 provides for a member of the public to request records in electronic form. If the record exists in electronic form, it can be delivered in electronic form. The language on Page 3, Lines 20-27 of the bill address the concerns about outdated records.

For public agencies that have records in outdated electronic formats, the legislation provides flexibility, allowing time and resources for the records to be retrieved. This provides the State Historical Society the opportunity to determine the cost and time involved and to ensure the requestor agrees to pay these costs. The affect of this legislation should mean that records are more readily available and easier for agencies to provide. In 1996 the Federal Public Records Act began authorizing electronic responses to public requests.

Representative Hart clarified that the emergency clause on Page 3 was added by the bill drafter.

**MOTION:** **Representative Andrus** moved to send **H 718** to the floor with a DO PASS recommendation. The motion carried by voice vote.

**ADJOURN:** Chairman Deal called the Committee's attention to the handouts from the Capitol Restoration Task Force meeting where they discussed the water table issues. This should answer some of the questions raised at the print hearings in preparation for Tuesday's hearings on the resolutions.

There being no further business to come before the Committee, the meeting was adjourned at 9:54 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary



## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 28, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** None
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The first order of business was to review the minutes of Wednesday, February 22 and Thursday, February 23, 2006.
- MOTION:** **Representative Stevenson** moved to approve the minutes of February 22 as printed. The motion carried by voice vote.
- MOTION:** **Representative Ring** moved to approve the minutes of February 23 as printed. The motion carried by voice vote.
- RS 16154** **Representative Black** introduced **RS 16154**, asking that once the legislation is printed it be referred to the Business Committee. The purpose of this resolution is to reject pending rules that the Division of Building Safety asked to be rejected.
- MOTION:** **Representative Miller** moved to introduce **RS 16154** for printing and to have the resolution referred to the Business Committee. The motion carried by voice vote.
- RS 16152** **Mr. Paul Jackson**, representing Farmers Insurance, spoke in support of **RS 16152**. This legislation allows for ten days' notice of cancellation of a fire insurance policy for nonpayment of premiums. All other cancellations will remain at 30 days. It is requested that this legislation be printed and referred to the Business Committee.
- In response to a question about mailing time being added to the 10 days, Mr. Jackson said coverage would be extended if it can be proven that payment was mailed in a timely manner. When asked the purpose of this change, Mr. Jackson said it was to make this policy match the auto cancellation policy already in code.
- MOTION:** **Representative Snodgrass** moved to introduce **RS 16152** for printing and to refer it to the Business Committee.

Chairman Deal briefed the Committee on how he would like to proceed with the review of the four Capitol Restoration Resolutions. It has been two weeks since the resolutions were printed and the members were asked to submit any other ideas/proposals they would like to be considered. Other than HCR 47, no other proposals have been received. It is hoped that the Committee can find one of the four resolutions to be satisfactory so it can be sent to the full house for consideration. It has been gratifying to see that many of you are excited about the restoration and have taken the time to meet with Carl Bianchi and ask questions. In talking with each of you it is evident that you agree restoration is an important issue.

This Committee is lucky to have the work done by the Capitol Commission available. It is an honor that the Speaker chose this Committee to address the issue of capitol restoration.

Chairman Deal asked Carl Bianchi to briefly review the four resolutions. After the review, time will be allowed for questions and then the resolutions will be considered as listed on the agenda.

**Mr. Carl Bianchi**, Director, Legislative Services, thanked the Committee for taking the time to consider these resolutions. He acknowledged that **Ms. Pam Aherns**, Director, Department of Administration, **Mr. Brad Foltman**, Administrator, Division of Financial Management, **Mr. Tim Mason**, Division of Public Works, and **Mr. Eric Milstead**, Legislative Services, were present to help answer questions.

**HCR 43** – is the proposal to construct a 30,000 one-story underground addition on the south side of the Capitol under the grand stairway. There would be no elevators nor any connectivity. The approximate cost would be \$16 million with a cost of \$350 per sf.

**HCR 44** – is a proposal to construct one-story garden level atrium additions at the east and west ends of the Capitol (33,000 square feet each) and a one-story underground addition on the south side of the Capitol under the grand stairway (30,000 square feet). The approximate cost of this proposal is \$36.1 million with a cost of \$318 per sf. This cost does not include the estimated \$2.8 million to remove and reinstall the grand stairway. Three of the four entrances would be closed during the construction adding additional costs.

**HCR 47** – is a proposal to construct two-story garden level atrium additions at the east and west ends of the Capitol (50,000 square feet each) and would allow for future connectivity and elevators and connectivity to buildings on the east and west sides of the Capitol. The approximate cost of this proposal is \$39 million with a cost of \$336 per sf.

**HCR 42** - is a proposal to construct two one-story garden level atrium additions at the east and west ends of the Capitol (33,000 square feet each) and would allow for future connectivity and elevators and connectivity to buildings on the east and west sides of the Capitol. The approximate cost of this proposal is \$24 million with a cost of \$304 per sf.

A discussion followed and Committee questions were answered by Mr. Carl Bianchi, Ms. Pam Ahrens, Mr. Tim Mason, and Mr. Eric Milstead.

*Question:* If the east and west wings are constructed now, can the south wing be added at a later date?

**Director Pam Ahrens** added some comments at this point. This option was discussed by the task force and adding either 1- or 2-story wings would not preclude adding the south wing later. The Department of Administration has worked very closely with the Legislative Services staff. From their perspective, the Governor has indicated restoration needs to be done. The south entrance causes the most difficult challenge because of the grand stairway and the difficulty in connecting that wing to the other Capitol property. If you decide to do additions on all three wings you have one entrance, and needed space for a staging area presents a challenge. The decision made today is just the first phase and one part of a long range plan. Concurrent resolution 47 and 42 are more in line with connectivity to other properties in the Capitol Mall area. The Department is prepared to proceed in whatever way you want us to proceed. There are lots of moving parts. It can be done, and we will get it done.

*Question:* Is information available on the accumulation of the tobacco tax? **Mr. Eric Milstead** stated that the long-term trend for tobacco tax revenue is estimated at \$30-31 million with a slight trend downward, maybe down to \$25 million, but should be adequate for whatever is chosen.

*Question:* What are the long-term goals for the Ada County Courthouse and the Jordan and JR Williams buildings. **Director Ahrens** explained that in the short-term the buildings will be used for swing space. The state did not have access to Borah building when restoration efforts began. The courthouse will be used in the short-term for the 2007-2009 Legislative Sessions and beyond that long-term plans will have to be developed. Borah, Jordan and JR Williams will be used for office space. Currently in Ada County the state leases 900,000 to a million square feet, and many of those agencies would like to come into the mall area. The Attorney General's office is now in three locations -- Jordan, Williams and the Capitol. Capitol restoration would allow the Attorney General's office to be housed in one location.

The next challenges after restoration will be the use of the Ada County Courthouse and the Borah building. A complete package to manage the state assets of property in the downtown area must be developed and an orderly approach must be taken for facilities management. Another challenge is parking and before you add more people to this area, parking must be addressed. The state owns the parking lot on the north side of the Jordan building. Additional parking is being looked at -- there are 2,300 state employees and about 16,000 parking spaces.

**Question:** How much square footage is needed for current needs and in the future? The Capitol has about 111,000 usable square feet. Estimates are rough, but it is estimated that an additional 25,000 square feet is needed for staff offices and accommodations for legislators. About 30,000 square feet is needed for hearing room space or a gross total of 55,000 square feet. This is what is needed now to open up and conduct business and allow reconfiguring space for meeting rooms. It was

recently necessary to use the House coat room to discuss a confidential matter with a Legislator. Incidents like this are driving the need for larger hearing rooms and support space plus the large hearing room for the Capitol.

*Question:* When looking at the different plans for east and west hearing rooms, was there input on how large of rooms are needed? When the architect gave the initial drawing, descriptions of the hearing rooms were included. The large hearing room would be about the same as the one at Boise City that seats about 200 people. Smaller committee meeting rooms would be about 40 x 50. It was suggested that a group be put together to determine how space would be allocated. The large hearing room would have auditorium seating and when the Legislature is not here, it would provide an opportunity for others to use.

*Question:* What would other level be used for in the two-story option? Hearing rooms and the auditorium would be in the lower level. It's very clear we could do whatever is needed within foot print.

*Comments & Concerns:* A concern was voiced that (after being on the Capitol Restoration Task Force and being here since the first capitol restoration effort when the master plan was developed and voted on) today we are being asked to vote on a footprint of square feet – before we voted on a complete plan. The need for more space is supported, but the concern is that the actual square feet needed has not been better documented. In looking at the previous plan, Legislative Services projected 18,200 square feet would be needed for the Senate and House and the space needed for agencies would be 21,000 square feet. It would be beneficial if the new figures were in writing so a comparison can be made.

**Mr. Bianchi** stated he believes the figures referred to are the 2001 estimates that are now inadequate. Since 2001 we have seen increased numbers of citizens coming into hearing rooms and also seen additional staff. The first estimates did not provide for growth. Staff is in small areas on three floors and when you see the technical support staff with laptops spread all over the floor, it is evident we need more space. It was agreed they were on the same page, but a layout of where changes have been made and actual numbers are needed in order to meet with constituents and say the proposal is justified.

*Question:* How much space does the Attorney General lease off site? **Director Ahrens** looked up those figures and said they are leasing about 34,000 square feet of space off site.

*Comment:* After visiting the State of Washington's Capitol where they have a large campus near the Capitol, it was realized we won't necessarily be able to achieve the same result, but any effort to bring agencies into the mall area is worthwhile. Having to drive to the Department of Building Safety in Meridian for meetings is difficult and time consuming.

*Question:* Has there been any input from the public and lobbyists about the resolutions requiring travel between the House and Senate? There hasn't been any input from lobbyist and no objections have been heard in

the hearings. The preservationists seem to be happy with the proposals. Last year the Legislators had problems with having hearing rooms in the courthouse.

*Comment:* **Mr. Bianchi** referred to the schematic drawings and said the large auditorium hearing room would seat about 200 and the medium sized meeting rooms would seat about 100 and there would be two rooms that would seat 50. In the Gold Room, once the Committee is seated, there is room for about 65. The resolutions try and plan for the future number of people coming to the Capitol.

*Question:* Would the actual plan come back for approval before rendering it? It was clarified that the passage of one of these resolutions will allow the financing process to begin. The Capitol Commission will revise the master plan and be tasked with developing a plan for space utilization. Input will be needed to select the architect, initiate the bid for construction, and look at facility needs. The Speaker and the Pro Temp will appoint a committee to work on these efforts, the staff will do the same thing, and the Executive Branch will be involved. The Capitol Commission would gather the input from each group. Once the footprint is known, everyone will dig in and adjust the plans to allow for the actual needs.

**MOTION:** **Representative Snodgrass** moved to HOLD **HCR 43** in Committee. Representative Hart said the reason he asked about the meeting room size was because of his concern that the south-side addition would not provide enough space. He said he will vote in favor of the motion.

The motion carried by voice vote and **HCR 43** will be held.

**MOTION:** **Representative Snodgrass** moved to HOLD **HCR 44**, the proposal for the two one-story wings plus the additional wing on the south side, in Committee. The motion carried by voice vote and **HCR 44** will be held.

It was asked if the two levels on the east and west wings are constructed, how many feet would we actually be going down. **Mr. Milstead** responded that going down one level would be 20-25 feet. Going down two levels would be about 35 feet. The minutes from the Capitol Restoration Task Force indicate the water table is at 33 feet. It was asked what "high degree" of success means? **Mr. Tim Mason**, Division of Public Works, said according to the consultants, technology (waterproofing and drainage) has progressed to a point that building to that depth is not a problem. "High level" of success means there is no concern about this issue.

**MOTION:** **Representative Edmunson** moved to send **HCR 47** to the floor with a DO PASS recommendation. He mentioned he had the opportunity to meet in the California Capitol and the completed restoration is stunning. It was pointed out that his students can't get into the committee rooms for hearings and we need to keep Idaho's legislative process open. An analogy was made to building a home when the family is growing. Idaho needs to be forward thinking and plan for growth. The two-level additions will accomplish this. Representative Edmunson said he has no doubt construction can be accomplished below the water table.

**Representative Ring** spoke in support of HCR 47. When moving to Caldwell, he said he looked at Saint Alphonsus and thought what a waste – and yet within just a few years they have continued to build. The two-story proposal seems like a little more space than is needed right now, but it makes sense rather than having to come back and dig down.

**SUBSTITUTE  
MOTION:**

**Representative Pasley-Stuart** offered a substitute motion in support of **HCR 42**, because she feels that resolution will provide plenty of space for growth, is the easiest to expedite, and there is plenty of space in the Capitol Mall area with the Ada County Courthouse and the Borah building. She said she doesn't want to go back to her constituents knowing that we have spent more than we needed to. We revere this building and want to see the restoration done well. If in 50 years it is necessary to expand the Capitol, those legislators will be able to do that.

Chairman Deal ruled that the substitute motion was out of order because we are considering HCR 47.

The debate on the motion to send HCR 47 to the floor with a DO PASS recommendation continued.

**Representative Anderson** spoke in support of the motion, referring to the statement that we needed 65,000 square feet of space for offices and hearing rooms, and the Attorney General's office needs 34,000 square feet – we already need 100,000 square feet of space.

**Representative Andrus** spoke in support of the motion. For an extra \$16 million he would hate to make a mistake. If space is not needed for the Legislature it can be used for office space.

**Representative Shepherd (2)** spoke in support of the motion, saying she can explain this to her constituents better than having to come back and justify additional space at a much higher cost.

**Representative Smith** said she would be voting in favor of HCR 47 even though she has gone back and forth. Future growth and the fact we are leasing close to 1 million square feet outside the Capitol mall are the reasons for her support.

**Representative Smylie** said it is his intent to vote for HCR 47, but he would recommend that HCR 42 be kept in abeyance. His constituents are definitely in favor of doing something with the courthouse and the Borah building, and it is his hope we don't just "mothball" those buildings.

**Representative Hart** spoke in favor of the motion, saying since he makes his living as a structural engineer, the water level issue is not a concern. The Legislature needs to look at its mission and how they want to operate. Flexibility is needed.

**Representative Ellsworth** stated she had just returned from talking with the Speaker and Leadership, and it is their intent to bring forth a resolution that addresses creating a commission to interface with the Capitol Commission. Chairman Deal said anyone is welcome to bring a resolution to this committee.

**ROLL CALL  
VOTE:**

A roll call vote was called for on the motion to send **HCR 47** to the floor with a DO PASS recommendation. The motion passed by a 15 to 3 vote. Representatives Deal, Smylie, Stevenson, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Anderson, Andrus, Hart, Bilbao, Shepherd (2), and Smith voted "Aye" and Representatives Ellsworth, Loertscher, and Pasley-Stuart voted "Nay". **Representatives Black and Stevenson** will sponsor HCR 47 on the floor.

The Chairman took the advice of Representative Smylie to hold HCR 42 in Committee as a backup.

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 10:16 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 1, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Ellsworth
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:01 with a quorum being present. The first order of business was to review the minutes of Monday, February 27, 2006.
- MOTION:** **Representative Ring** moved to accept the minutes of February 27, 2006 with a correction to the date on Page 1. The motion carried by voice vote.
- RS 16175 &  
RS 16189** **RS 16175 & RS 16189** will be moved to Thursday's agenda due to a delay in Legislative Services.
- RS 16172** **Representative Wendy Jaquet** spoke in support of **RS 16172**, legislation that aims to align Bellevue's election laws with those of other cities in Idaho. The city of Bellevue is a charter city and prides itself on being different. Now city leaders want to follow the same election schedule, moving their general election date from April to November. Justin Ruen from Associations of Idaho Cities has been involved with this legislation.
- MOTION:** **Representative Smylie** moved to introduce **RS 16172** for printing and to send the bill to the Local Government Committee.
- S 1260** **Mr. Jack Baker**, Idaho Racing Commission spoke in support of **S 1260**. This legislation adds definitions for "pari-mutuel" and "simulcast" that are taken from the Interstate Wagering Act. The meaning of "Horseman's group" is clarified to correct an issue that surfaced when previous management of Les Bois Park created their own horsemen's group. Horsemen's group is defined as an organization composed of licensed owners and/or trainers, **not breeders**, duly registered with the Secretary of State and recognized the Idaho Racing Commission.
- MOTION:** **Representative Snodgrass** moved to send **S 1260** to floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Snodgrass** will sponsor S 1260 on floor.



**S 1317**

**Mr. Jack Baker**, Idaho Racing Commission spoke in support of **S 1317**. When the previous manager of Les Bois Park left and took a lot of money from the simulcast fund, it was decided to draft legislation that would protect the money and allow the money to be gathered on a weekly basis. S 1317 addresses this problem.

The old racing statutes didn't require a set number of racing days if the total race handle was \$5 million or less during the last calendar year, but specified the number of races would be based on 90% of the number of live race days that were conducted by a licensee in 1989. This change is being made in contemplation of a new facility being opened in the Coeur d'Alene area.

Another item of importance considered in this legislation was the distribution of funds. Rather than distributing 40% back into the simulcast sites, this legislation proposes giving them 30% and distributing 10% to tracks for operating costs. The bulk of the 10% would be spent on workmen's compensation.

In response to a question about whether this legislation affects the number of races on a given day, Mr. Baker said "no". Small tracks will run six races per day and large tracks will run eight races per day..

Mr. Baker also clarified that additional costs for the Racing Commission as result of this legislation.

**MOTION:**

**Representative Bilbao** moved to send **S 1317** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Deal will sponsor S 1317 on the floor.

Representative Smylie commented that he appreciates Mr. Baker's efforts during a difficult time for the Racing Commission.

Chairman Deal outlined the schedule for the rest of this week and next. The Committee will hear RSs tomorrow and will not meet Friday. There is still one house bill to be heard Monday or Tuesday and about four Senate bills. A tour of the Ada County Courthouse has been set up for 9:00 A.M. on Wednesday morning.

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 9:17 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 2, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Smylie, Black, and Ellsworth

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. There were no minutes to review.

**RS 16168** **Representative Margaret Henbest** spoke in support of **RS 16168**, legislation that provides for a House Concurrent Resolution stating findings of the Legislature concerning hunger and food insecurity in Idaho. This legislation coincides with the release of the "Hunger in America 2006 Idaho Report". The fact is that hunger exists in Idaho and this issue was "born out" in this report. About 25,000 children in the state don't have adequate food. Working with child neglect at St. Lukes, it is evident that there are children without adequate food. The roll of the Idaho Interfaith Roundtable Against Hunger is to convene a fall 2006 Idaho Summit on Hunger. October 2006 is being designated as "Hunger and Food Insecurity Awareness Month".

**MOTION:** **Representative Smith** (30) moved to introduce **RS 16168** for printing and to send it to the Second Reading Calendar with a DO PASS recommendation. The motion carried by voice vote. **Representative Henbest** will sponsor the bill on the floor.

**RS 16193** **Mr. Bob Corbell**, representing the Idaho HVAC Contractors Association and the Independent Electrical Contractors of Idaho, spoke in support of **RS 16193**. This legislation was printed as H 733 the last go around. Currently, a \$2,000 bond is required for HVAC and plumbing contractors, and the only way consumers can collect against the bond is if a contractor violates Idaho Code. The matter is taken to the appropriate Board and that Board judges if this is indeed a violation. Since 1957 there has only been one claim because the process is cumbersome.

Last year legislation was passed to delete the bond for those two trades, but after the Senate amended it, the House chose not to pass the amended legislation with the understanding that Representative Black would meet with the insurance and construction folks in the interim. The insurance entities developed a bond for \$10,000 that would cost about the same as the \$2,000 bond. This bond would be payable to the consumer if the contractor fails to meet the requirements of the applicable codes or rules – consumers would be protected. The statement that the \$10,000 bond would be about the same cost as

the \$2,000 bond was questioned. Mr. Corbell said if a contractor has a clean record and good credit the cost would be about \$5-\$10 per \$1,000. Mr. Corbell clarified that the reason H 733 is being replaced is because journeymen were included and can't be because they work for the contractor.

**MOTION:** **Representative Snodgrass** moved to introduce **RS 16193** for printing and to refer the bill to the Business Committee. The motion carried by voice vote.

**RS 16191** **Representative Bob Ring** introduced **RS 16191**, legislation that amends the possession limits for pseudoephedrine and revises the penalties for possession. This RS is a replacement bill for one that was heard in the Judiciary and Rules Committee a week or so ago and amendments were offered. Rather than double amend the bill, a new RS is being introduced. The substance of the legislation is found on Page 3. The following provisions will leave the mandatory sentencing on the meth labs and set a term of imprisonment for possession of pseudoephedrine.

- If a person possesses 500 grams or more of pseudoephedrine they will be sentenced to a mandatory minimum fixed term of imprisonment of ten years and fined not less than \$25,000.
  - The maximum number of years of imprisonment for trafficking in immediate precursors of methamphetamine or amphetamine in the quantities specified on Page 3, Lines 6-11 shall be life and a maximum fine of \$100,000.
- If the quantity of pseudoephedrine in possession is 25 grams or more, but less than 500 grams, the person shall be sentenced to a term of imprisonment up to 10 years and fined not more than \$25,000.

**MOTION:** **Representative Stevenson** moved to introduce **RS 16191** for printing and to refer the bill to the Judiciary and Rules Committee.

**RS 16184** **Representative Mary Lou Shepherd** (2) introduced **RS 16184**. This RS replaces H 674. This legislation clarifies the Fire Protection District statutes and cleans up various code sections, renumbering these sections and making other technical corrections. These corrections are necessary because of the multiple amendments made to this section of code prior to 2006. Over 100 hours have gone into this legislation. The Fire Associations and the Cities and Counties are now all in agreement. Representative Shepherd indicated she is not aware of any opposition. A capsule review of the amendments was given (enforcement of fire codes, costs of publishing, date for oath of office, term of office, annexation of districts, appraised value of property, contracts, and various technical corrections). Representative Shepherd closed by saying this legislation is a good vehicle for cleaning up the fire code.

**MOTION:** **Representative Anderson** moved to introduce **RS 16184** for printing. The motion carried by voice vote.

**ADJOURN:** There will be no meeting on Friday. There being no further business to come before the Committee, the meeting was adjourned at 9:24 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 6, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The first order of business was to review the minutes of Tuesday, February 28, Wednesday, March 1, and Thursday, March 2, 2006.

**MOTION:** **Representative Smylie** moved to accept the minutes of February 28, 2006 as printed. The motion carried by voice vote.

**MOTION:** **Representative Snodgrass** moved to accept the minutes of March 1, 2006 as printed. The motion carried by voice vote.

**MOTION:** **Representative Ring** moved to accept the minutes of March 2, 2006 as printed. The motion carried by voice vote.

Chairman Deal explained that the next four RSs, to be presented by Representative Darrell Bolz, address the same issue for each of the small commodity commissions. Representative Bolz has asked to address the issue once, and then the Committee will vote on each RS individually.

**RS 16215** **Representative Darrell Bolz** introduced **RS 16215**, legislation that reduces the number of required signatures on checking accounts for the Alfalfa and Clover Seed Commission.

Mr. Ray Ineck, Legislative Auditor, has indicated that it is no longer necessary for small commodity commissions to require two signatures on checking accounts. The accounts are audited every two years with the state reserving the right to audit the funds at any time. Currently, each account requires two signatures to hopefully prevent any misuse of funds. Because Mr. Ineck said that requiring two signatures is not a usual practice, several banks were contacted about this issue. All said they will not open accounts requiring two signatures – the standard is for one signature.

The Agriculture Committee had a lengthy discussion on these four pieces of legislation. They discussed putting a limit on the amount of the checks requiring one signature, but the banks weren't willing to do this. The banks said if you place a limit on the account all checks will be rejected. Mr. Ineck indicated that when the City of Boise was having problems with

misappropriation of funds, a Senate bill was passed in 2003 that required the city to put in place internal accounting controls. Language requiring internal accounting controls similar to the 2003 legislation has been added to each of the four RSs.

- MOTION:** **Representative Stevenson** moved to introduce **RS 16215** for printing and to refer the bill to the Agricultural Affairs Committee. The motion carried by voice vote.
- RS 16216** **RS 16216**, legislation that reduces the number of required signatures on checking accounts for the Idaho Mint Commission, was considered.
- MOTION:** **Representative Stevenson** moved to introduce **RS 16216** for printing and to refer the bill to the Agricultural Affairs Committee. The motion carried by voice vote.
- RS 16217** **RS 16217**, legislation that reduces the number of required signatures on checking accounts for the Idaho Canola and Rapeseed Commission, was considered
- MOTION:** **Representative Stevenson** moved to introduce **RS 16217** for printing and to refer the bill to the Agricultural Affairs Committee. The motion carried by voice vote.
- RS 16218** **RS 16218**, legislation that reduces the number of required signatures on checking accounts for the Idaho Bean Commission, was considered.
- MOTION:** **Representative Stevenson** moved to introduce **RS 16218** for printing and to refer the bill to the Agricultural Affairs Committee. The motion carried by voice vote.
- RS 16214** **Representative Darrell Bolz** introduced **RS 16214**, legislation that removes the district requirement for the Alfalfa and Clover Seed Commission, making it easier to find individuals willing to serve and represent the industry. For a number of years when a commissioner's term was up, each district had to nominate three individuals. The production for alfalfa and clover has been declining and it has been difficult to find people in both districts to serve. By removing the district requirement, finding individuals willing to serve should become more manageable.
- Representative Bolz clarified that the language on Page 2 does reduce the number of members on the nominating committee from six to three.
- MOTION:** **Representative Andrus** moved to introduce **RS 16214** for printing and to refer the bill to the Agricultural Affairs Committee. The motion carried by voice vote.
- RS 16219** **Representative Sharon Block** introduced **RS 16219**, legislation that authorizes the Director, Idaho Department of Health and Welfare, to restructure the Idaho Medicaid Program to achieve improved health outcomes for Medicaid participants and slow the rate of growth in Medicaid costs. Last summer Medicaid reform meetings were held with the Governor's office and members from the Health and Welfare community. Ideas presented at those meetings were incorporated into the

Governor's Medicaid Initiative. A number of bills were drafted and introduced previously. RS 16219 is the framework bill for Medicaid reform. The Medicaid Simplification Act addresses three categories of individuals: low-income children and working-age adults; persons with disabilities or special health needs; and elders. This legislation outlines the criteria, goals and benefits for each of these groups. Previously all individuals were in the same group and benefits could not be limited. This legislation does not create a fiscal impact to state general fund.

**MOTION:** **Representative Ring** stated this is very important legislation, and moved to introduce for printing **RS 16219** and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.

**RS 16199** **Representative Wendy Jaquet** introduced **RS 16199**, legislation that provides a local option for movie theaters to continue to serve beer and/or wine by ordinance. The Magic Lantern theater thought they were in compliance because of a city ordinance, but according to ABC they were not. This legislation will allow two theaters in the Wood River Valley and possibly the Flicks in Boise to continue to serve beer and/or wine. The Police Chiefs consulted said there have been no problems since the city ordinances were put in place, but prior to doing so, people were bringing beer and wine into the theaters in backpacks.

It was asked why on Page 2, language is added stating that section 23-614(1)(e) doesn't apply and why this reference is needed in the legislation. This language was added in the 90s when Garden City had theaters showing porno films. There is no longer such a thing as "X" or "XX" rated films and most of this type of material is produced in videos. It is important for this section of code not to apply to the premises affected by this legislation.

**MOTION:** **Representative Smith (30)** moved to introduce **RS 16199** for printing. The motion carried by voice vote.

**RS 16197** **Representative Nicole LeFavour** introduced **RS 16197**, legislation that requires anyone practicing in immigration assistance to register with the Secretary of State. This legislation was taken to Secretary of State to determine if there needs to be a fee associated with the registration process. The RS does meet most of their needs. There was a question about whether this registration should be placed under the Bureau of Occupational Licensing, but it was determined, at this time, it is more fitting to just require registration with the Secretary of State.

This issue has been brought up by employers and others who have raised concerns about individuals posing as immigration assistants. Intent of the bill is to disallow inadequate counsel and prevent deceptive practices that have caused many individuals seeking to follow the US immigration policy to be misled. This is a new section of code and is modeled after the Washington State statute. Page 2, lines 4 and 5 and Page 3, Lines 20-21 refer to the "United States Immigration and Naturalization Service" and it should be changed to read the "Department of Homeland Security".

Many individuals come to immigration assistants to have professional looking documents prepared. Section 51-203 exempts the following persons from the provision of this chapter and those are (1) an attorney licensed to practice law in this state and (2) A nonprofit corporation or

clinic affiliated with a law school in this state. Section 51-204 requires registration and limits the assistant to providing non-legal assistance only. There is a great deal of confusion when notary public services are advertised as “notarios” or attorneys. Section 51-205 requires a written contract with an explanation of services performed and all compensation and costs must be identified. A document must be provided stating that this person is not an attorney and may not perform legal services. The customer will have 72-hours to rescind the contract. It is very important to note that all documents must be returned to the customer. Section 51-206 outlines activities that are prohibited and Section 51-207 provides that any person violating this chapter shall be guilty of a misdemeanor.

There was a great deal of confusion about the use of the word “notarios” in the Statement of Purpose. **Ms. Maria Andrade**, Attorney, explained that in Mexico a notary public must be a lawyer/paralegal. One of the words used most frequently in audio and printed ads is “notarios” and this causes a great deal of confusion. A Committee member stated their concern about singling out one nationality in this legislation when in fact there are other immigrants of varying nationalities who need assistance.

Another concern was voiced about the fiscal impact not being accurate. The Secretary of State may have to establish another fund for the registration fees, which would result in a fiscal impact. The Secretary of State’s office indicated to Representative LeFavour that this would involve a simple register.

**MOTION:**

**Representative Smylie** moved to introduce for printing **RS 16197** with the following changes being made on Page 2, lines 4 and 5 and Page 3, Lines 20-21: Delete “United States Immigration and Naturalization Service” and insert the “Department of Homeland Security”. A more complete fiscal note also needs to be provided. The motion carried by voice vote.

**S 1355**

**Mr. Steve Guerber**, Director, State Historical Society, spoke in favor of **S 1355**. This bill is similar to past legislation, but there has been substantial clarification. This legislation sets down requirements relating to historic preservation for state agencies and other entities of state government preparing to remove or perform construction on structures owned or controlled by the state and provides for the State Historic Preservation Office (SHPO) to perform an optional project review before the project begins.

The “Criteria for Evaluation” for the National Register of Historic Places is provided in Attachment 1. Buildings meeting this criteria would be qualified to be placed on the historic places list.

Looking at the last paragraph on Page 2 starting on Line 37 it basically says, state agency or other entities of state government proposing the project will have the discretion to act upon the recommendations of the SHPO. These recommendations are to be used as a planning tool to avoid unnecessary loss of state-owned historic structures or minimize potential adverse impacts to these structures, and not to specifically delay or halt a project.

Mr. Guerber said he thinks the bill speaks well to a need, and the bill passed the Senate by 34 to 1 vote. This legislation will enhance preservation of state buildings. Mr. Guerber said he is aware that the

Farm Bureau opposes this bill, and he appreciates them contacting him with their concerns. They are in opposition because of their policy that opposes the expansion or any additional funding for the SHPO. It is believed that the SHPO already has the authority, and this legislation does not require additional funding. They anticipate few opportunities to review state buildings in the future.

A lengthy discussion followed. The Committee's major concerns and Mr. Guerber's responses are addressed below:

• **Concern:** The fiscal note does not factor in the time it would take to review additional projects. **Response:** The SHPO reviews about 3,000 federal projects now. The SHPO feels the time to review and provide feedback for 2-3 projects is not significant. If you are talking about removing an entire building, a thorough review would be performed. If you are talking about putting an outside elevator on a building, it may take only a few hours to recommend the elevator be placed on the side of the building minimizing the impact.

• **Concern:** On Page 2, starting on Line 27 it indicates that the SHPO will have 30 days to complete its review after receiving sufficient project information. A small project may be reviewed very quickly, but the SHPO would still have 30 days. **Response:** The 30 days begins when someone proposes a project and goes to the Division of Public Works. The SHPO would get the request at this time. It takes the state much longer to respond. It is written in the legislation that if the SHPO does not respond within the 30-day period, the project will proceed. It is Mr. Guerber's intention to notify the agency as soon as possible if no problems surface.

• **Concern:** It looks like the remodeling of the Capitol and courthouse have prompted you to bring this legislation forward. **Response:** The legislation surfaced two years ago. The same question was asked in the Senate. The courthouse would be examined in a 30-day period, recommendations would be made, and the agency would make the ultimate decision. Two buildings were recently removed at the State School in Nampa, and the SHPO would have liked to document the buildings. These are recommendations – aren't we better to deal with the issues early rather than wait for a public uproar to occur.

## CON

**Mr. Dennis Tanikuni**, Assistant Director of Public Affairs, Idaho Farm Bureau, stated the Farm Bureau appreciates and treasures our legacy in Idaho, but they have concerns with **S 1355**. The Farm Bureau does have a policy regarding the Historic Preservation Office. Their main concern is the language starting on Page 2, Line 1 where it states "... shall cooperate to the fullest". Section 67-4103, Project Review, starting on Line 14 reads "... option of reviewing all construction projects or other projects that take place on, encompass, or that otherwise might impact or disturb structures owned by the state ...". In Parma, Idaho, there is an old newspaper building that is privately owned and paid for with grower funds. They are concerned it could be selected to be placed on the Historic Places list. They question what other projects, excavation, emergency renovations actually mean – do they mean replacing windows? If literally reading this language, you would have to notify the SHPO. Section 67-4103 implies to him that this bill could and would impact construction on adjacent property and does not clearly state on "historic structures" only throughout the bill.

Review of these projects causes an automatic 30-day delay. Some type of mechanism needs to be built in so that the state agency knows what SHPO's thoughts are. The intent and the importance of preserving the



state's history are understood, but significant questions still remain. It can't be assumed that all of these projects are urban. The language is inconsistent and in speaking to other groups such as the Cattlemen's Association, they also have concerns and stand in opposition to S 1355.

A Committee member asked Mr. Tanikuni how he is interpreting the language to mean private property. Mr. Tanikuni said his concern is private property adjacent to or behind a state building or state property if it is deemed the private construction may affect the state property. A follow-up statement was made that as part of the existing construction process, any improvements or construction are routinely considered and permits are required. Mr. Tanikuni said he respectfully disagrees. He feels we may well be adding another layer of review for private property owners. Don't think we can assume all historic structures are urban and could be on a privately owned ranch.

Another Committee member pointed out that the language on Page 2, Line 14 does indicate the SHPO will have the option to review all construction projects or other projects, and it is agreed that this is confusing and could leave the door open for review of private projects adjacent state land/buildings.

## CON

**Mr. Rick Waitley**, Food Producers of Idaho, spoke in opposition to **S 1355**. Mr. Waitley said he received input from a number of rural Idaho organizations that have given the Food Producers the authority to represent them at this hearing. These groups are opposed to this legislation because they have many older structures in these areas that they fear will be affected. Their concerns are with the language on Page 2 all "construction projects or other projects" and the size of the projects. The agriculture community recognizes and wants to work with the Historical Society, but it is felt the language is not clear and the process is vague. They are not in support of **S 1355**.

Mr. Waitley was asked if the language on Page 2, starting on Line 14 is amended or removed, if this would address the Food Producers concern. Mr. Waitley said in order for him to react to this he would need to check with those he represents – this amendment is not part of his direct marching orders.

Mr. Guerber closed the debate by calling the Committee's attention to a very important section found on Page 1, starting on Line 37: "For purposes of this section, the definition of "historic structures" shall be limited to those buildings listed in, or eligible for listing in, the national register of historic places". Buildings must be 50 years old and owned by the state. There were concerns about buildings on farms and ranches, but unless these are owned by the State of Idaho they are not affected. Regarding the building in Parma, a review would be done to make recommendations and those recommendations could be acted upon or ignored. If additional costs occur, the legislation states recommendations would be carried out to the fullest extent practical by the agency. This is a review process, and the final decision lies with the agency or commission.

A Committee member said they were surprised about the number of projects completed by the SHPO per year. In response it was explained that any property that is federally owned or federally funded must be

inspected by the SHPO before construction or improvements can be made. Most of the items are routine, i.e. future cell towers. It is felt that 5-10% of the workload would involve state buildings. This legislation would minimize the negative impact on the historic buildings in Idaho.

Another Committee member mentioned that on Page 1, Lines 37-38 it refers to "historic structures" but Page 2, Section 3 does not reference "historic structures". Mr. Guerber said the intent was to make the language consistent and he is not opposed to some clarification.

**MOTION:** **Representative Smylie** moved to HOLD **S 1355** for one week to allow parties to get together and come to a consensus on amendments to this legislation, specifically on Page 2, Lines 14-16.

It was recommended that Mr. Guerber look at being consistent with references to the Idaho State Historical Society and the State Historic Preservation Office. Mr. Guerber said he will look at this.

It was clarified that any construction project receiving federal funding would fall under SHPO review, i.e. highways.

When asked, outside of federally funded projects, what is the requirement for SHPO review. Mr. Guerber said within Idaho they have no review authority. When asked what other states are doing, he said 49 states have "due process" on state lands.

**VOTE:** A vote was called for on the motion to HOLD **S 1355** for one week to allow time for amendments to be prepared. The motion carried by voice vote.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 10:21 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 7, 2006
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representatives Snodgrass, Hart and Pasley-Stuart
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:00 A.M. with a quorum being present. There were no minutes to review.
- RS 16210** **Mr. Steve Thomas** spoke in support of **RS 16210** on behalf of Community Loans of America based in Atlanta and operating in Idaho as Idaho Title and Loans. Work began on this legislation last fall with the Department of Finance to raise the bar for consumer loans. Five meetings were held with Gavin Gee, Director, Department of Finance, and 10 to 12 drafts of this legislation were produced. This legislation imposes additional regulations on title lenders and is based on the American Legislative Exchange Council (ALEC) model legislation. He asked that the RS be printed and referred to the Business Committee.
- MOTION:** **Representative Black** moved to introduce **RS 16210** for printing and to refer the bill to the Business Committee. A question was asked about the number of loan businesses operating in Idaho. Mr. Thomas said he does not know, but there were four or five companies represented at the table. He clarified that payday loan companies operate under separate statutes and regulations.
- RS 16206** **Mr. Roy Eiguren**, appearing at the request of the Chairman, presented **RS 16206**. In a meeting with Speaker Newcomb the issue of terms for the Legislators and for the executive officers was discussed. **RS 16206** provides that the term of office for Governor, Lieutenant Governor, Secretary of State, State controller, State Treasurer, Attorney General and Superintendent of Public Instruction shall begin at noon on the first Monday in January following the State Executive Officer's Election. Currently the term begins at 12:01 A.M.
- RS 16207** **Mr. Eiguren** said the same change is being proposed in **RS 16207** for State Senators and Representatives. They shall be elected for a term of two years commencing at noon on the first day of December following the General Election.

Chairman Deal explained that Leadership was petitioned under Rule 20 to

allow introduction of these two House Joint Resolutions after the deadline. The Speaker accepted the petition to allow the resolutions to be heard.

A question was asked about how this change will affect their pay, and Mr. Eiguren said it wouldn't. One story the Speaker told before he announced he would not run again, was when Speaker Simpson was elected to Congress and swore in the legislators as a private citizen because his term had expired at midnight.

It was asked if this legislation is worth \$50,000. Mr. Eiguren said that was up to the Committee to decide.

**MOTION:** **Representative Shepherd** (2) moved to introduce **RS 16206** for printing. The motion carried by voice vote.

**MOTION:** **Representative Ellsworth** moved to introduce **RS 16207** for printing. The motion carried by voice vote.

**RS 16144C1** **Representative Tom Trail** introduced **RS 16144C1**, legislation to be printed and referred to the Agricultural Affairs Committee. This legislation relates to pesticides and chemigation and requires posting of pesticide safety information for agricultural workers. Representative Trail said after the incident in Canyon County last summer where a number of workers were poisoned by pesticides and had to be taken to the hospital, it was discovered that the federal laws are inconsistent and Idaho needs to take measures to better protect workers in the fields.

**MOTION:** **Representative Miller** moved to introduce **RS 16144C1** for printing and to refer it to the Agricultural Affairs Committee. The motion carried by voice vote.

Chairman Deal suggested that **S 1351** be moved to Thursday's agenda because Senator Hill was needed in JFAC for a vote. **RS 16212** will be heard at a later date because Representative Rusche is not available.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 9:18 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 9, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Black

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The first order of business was to consider the minutes of Monday, March 6, 2006 and Tuesday, March 7, 2006.

**MOTION:** **Representative Pasley-Stuart** moved to accept the minutes of Monday, March 6, 2006 at printed. Representative Smith (30) pointed out that on page 1, Mr. Ineck's name should not be highlighted. The correction was so noted, and the motion carried by voice vote.

**MOTION:** **Representative Shepherd** (2) moved to accept the minutes of Monday, March 7, 2006 at printed. The motion carried by voice vote.

Chairman Deal pointed out that SJR 107 and its trailer bill will be heard tomorrow.

**S 1388** **Representative Maxine Bell** spoke in support of **S 1388**, legislation that distributes \$7.2 million dollars back to local government over a period of four years as well as re-aligns the liquor revenue distribution to allow cities, counties, and the state to share in the revenue growth. The Idaho State Liquor Dispensary was put in place in 1939 and over the years, "people are drinking better liquor". The funds from the liquor dispensary have been a marvelous help for substance abuse treatment programs, community colleges, public schools, health and human services and public safety, but things got "out of sync" and liquor stores were getting the increase rather than the state.

S 1388 is the result of bringing all the parties together in the interim -- members from the House, the Senate, the counties and cities. Under this legislation, local distribution of funds will remain unharmed and six more liquor stores have been authorized this year. The revenue will continue to grow and S 1388 ensures that all will share equally in the revenue source. The counties voted in favor of S 1388 and the cities voted not to oppose the legislation.

In the 2005 legislative session, the state legislature had a one-time opportunity to purchase water rights that would benefit cities, counties and the state so \$7.2 million was "borrowed" from the unexpected 30%

growth in the 2005 liquor revenues. "Liquor and water do mix." Attachment 1 entitled "New Liquor Distribution Formula (Average Growth)" shows how the \$7.2 million will be repaid and how the liquor revenue distribution will be shared with cities, counties and the state, achieving a fifty-fifty split by 2014. This is a "win-win" situation showing how legislation should happen.

**PRO** **Mr. Daniel Chadwick**, Executive Director, Idaho Association of Counties, spoke in support **S 1388**. The process worked well getting all the parties together and coming to an agreement. This legislation probably should have been in place 20 years ago. The distribution did get "out of whack". The counties appreciate the help the Legislature gives. The liquor funds are used for mental health, law enforcement and other programs.

**MOTION:** **Representative Stevenson** moved to send **S 1388** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Bell** will sponsor S 1388 on the floor.

**S 1351** **Senator Brent Hill** spoke in support of **S 1351**, legislation pertaining to a device he hopes no one here is familiar with. The alcohol without liquid device (AWOL) was introduced in the UK in 2004 and in the US last summer. Legislators in many states have been scrambling to put legislation in place to ban the use of these devices.

An AWOL lets a person put alcohol of their choice in a device that mixes the liquid with pure oxygen and creates a vapor or mist. Users inhale the mist over a 15-20 minute period. The alcohol enters the lungs, rather than the stomach, and is absorbed very quickly. Alcohol consumption is legal, but the concerns with use of these devices are (1) the alcohol goes directly into the mouth and nose, (2) it is absorbed into the blood vessels, (3) it goes into the blood stream and more directly to the brain and (4) it can give a "hit" 10 times stronger than drinking alcohol.

Another concern is that AWOL users have a blood alcohol concentration well below the legal limit despite being too drunk to drive. The potential of this device to impair driving ability while still allowing the user to pass a breathalyzer test poses a serious safety concern. If a person passes a breathalyzer test, they can't be convicted.

Professor Oliver James, Newcastle University, was quoted as saying: *"this will not only make you very drunk very quickly but is also likely to increase the risk of direct alcohol damage to the brain. This could do irreversible damage to the nerves, lead to swelling and possibly lead to dementia in the long term."* Dr. Michael Silver indicated this device is not a device that should be used under any conditions, stomachs can tolerate alcohol, but lungs cannot. Mr. Bob Clements, Alcohol Beverage Control, and Mr. David E. Wojnar, Distilled Spirits Council of the US, both support this legislation.

Young people look at AWOLs as the ultimate party toy and they are advertised as safe and the in-thing to do. The ads indicate "the impact is immediate, the effect lasting, and hangovers are history." These devices are readily available on the Internet. It needs to be made clear that there are some things not welcomed in Idaho.

**MOTION:** **Representative Smylie** moved to send **S 1351** to the floor with a DO PASS recommendation.

Representative Snodgrass asked questions about whether there is a mechanism in place to prevent delivery of these devices to Idaho and about enforcement. Senator Hill stated we have no more control over these devices than we do over other devices, drugs, or drug paraphernalia. Enforcement is a challenge.

Representative Anderson voiced his concerns about “knee jerk” reactions to a situation, potentially possible health benefits, and whether the Distilled Spirits Council is backing this legislation because a person can get “high” with less alcohol. Senator Hill said the liquor entities have come to the plate to ensure responsible use of their products. The tenancy in government as a whole is to create a committee to study an issue, a 3-year study isn’t needed to determine if this is dangerous. We need to rely on the expertise of doctors and not endanger citizens in the interim. Senator Hill was asked if there is a website where studies can be reviewed to gain a better understanding and increase ones comfort level. He said the information he presented came from several websites, public radio and interviews with newscasters. He said he has an e-mail address he will make available.

Representative Ellsworth suggested that lines 23-26 provide for research by hospitals, universities or pharmaceutical or biotechnology companies which should eliminate some of the concerns.

Representative Smylie spoke in favor of the legislation. Young people are very impulsive and “trend oriented”. In his line of work he has seen young people make bad choices and told about a young 85-pound girl in his school who has brain damage resulting from binge drinking. The hazards of alcohol are well documented.

Representative Ring said his first concerned is that young people may try putting denatured alcohol in these devices and end up blind. His second concern is that the delicate membranes in the lungs are not meant to be exposed to high concentrations of alcohol.

Representative Anderson stated he would be voting against S 1351 in Committee. He said his position is that he should be satisfied with the information he is receiving and feels he needs more information.

**VOTE:** A vote was called for on the motion to send S 1351 to the floor with a DO PASS recommendation. The motion passed by voice vote. Representatives Anderson and Hart voted “No”.

**ADJOURN:** The Committee will meet tomorrow at 8:30 A.M. There being no other business, the meeting was adjourned at 9:30 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 10, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Deal and Miller

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Vice Chairman Smylie called the meeting to order at 8:34 with a quorum being present. The first order of business was to review the minutes of Thursday, March 9, 2006.

**MOTION:** **Representative Ring** moved to approve the minutes of March 9, 2006 as printed. The motion carried by voice vote.

**SJR 107** **Representative Jim Clark** spoke in support of **SJR 107**, a resolution that does nothing more than turn the Idaho Millennium Fund into several funds, providing better investment strategies for the millennium moneys by adding two more buckets. The second bucket will be for the Idaho Millennium Income Fund. Currently, 5% of the increase in market value over a 12-month period has been used for non-smoking advertising, cessation programs, and grants for non-smoking campaigns. About \$2.2 million in grants have been distributed.

The third bucket created will be for the Idaho Millennium Permanent Endowment Fund and will require a constitutional amendment to create this fund. If the amendment passes, the endowment fund will receive 80% of all future tobacco settlement payments to Idaho. These funds will be invested in long-term investments, and It is estimated that the growth of the permanent endowment funds will grow at 8% rather than the current 4%. No one will be allowed to go into the permanent endowment fund and pull funds out.

Currently, the tobacco settlement funds from the Tobacco Master Settlement Agreement are placed into the Idaho Millennium Fund. In the future, the Idaho Millennium Fund will receive 20% of the tobacco settlement payments to the State until the balance reaches \$100 million. At that point, all funds greater than that amount will go into the permanent endowment fund.

This legislation has been worked on for six years and is needed to protect the millennium fund. In 2002 and 2003 funds were transferred from the Idaho Millennium Fund to the General Fund to help balance the budget. This resolution will ensure that there will always be \$100 million available for emergencies. By 2008 the \$100 million balance should be achieved allowing additional dollars to be dropped into the endowment fund.



Representative Clark pointed out that he is not happy with the language that will be placed on the ballot because it is very complex and confusing. It will be very important to tell everyone to vote "YES".

A Committee member mentioned the resolution, recently passed in the House, that proposes using tobacco funds for constructing two wings onto the Capitol. It was asked if SJR 107 passes, what impact it will have on the Capitol restoration resolution. Representative Clark said there would be no impact whatsoever. The money to fund the construction will come from the moneys resulting from the increase in cigarette tax from 27 cents to 59 cents.

Another Committee member asked if there is a way to access the funds deposited into the permanent endowment fund, and Representative Clark said "no, the money cannot be touched". It was clarified that this is the case with all endowments, but the interest generated from that fund can be used.

**PRO**

**Mr. Brad Hoaglund**, Director of Government Relations, American Cancer Society, spoke in support of SJR 107 and S 1416 on behalf of the American Cancer Society and the Coalition for a Healthy Idaho. Sending the bulk of the payments to the endowment fund will protect the corpus of the money. In turn this will allow the fund to build up its earnings and ensure future funding for programs through the appropriations process. Fourteen percent of high school students in Idaho smoke, and the funding for tobacco prevention through grant programs needs to be preserved to tackle this problem.

With the passage of SJR 107, the corpus of the Idaho Millennium Fund may be tapped for a fiscal emergency if necessary. It is believed this is a good compromise that will ensure program funding and provide a source of cash to the state for a fiscal crisis. The American Cancer Society is prepared to educate citizens on the importance of passing this constitutional amendment in November.

**Mr. Ben Ysursa**, Secretary of State, said he has struggled with this bill. He is not against the intent of the resolution, but his objection is to the language found on Page 2, Section 2, Lines 41-54 and Page 3, Lines 1-19. Anyone would have problems with this language and it is exasperating to have such long questions on the Idaho ballot. The counties pay for printing the ballots, and it is very expensive. The last long question on the ballot for the Municipal Bond Bank Authority was 29 lines and this one is 32 lines. Mr. Ysursa's observation is that the ones forgotten are the voters and when voters are in doubt they do not vote. It is not the sponsor's fault this question is so lengthy, but it is a red flag. In the future it is extremely important that ballot questions be written so voters can understand them.

**PRO**

**Ms. SueAnn Reese**, spoke in favor of SJR 107 on behalf of American Heart Association. The American Heart Association, the American Cancer Society, and the Coalition for a Healthy Idaho will embark on a campaign to educate the voters.

**MOTION:**

**Representative Ellsworth** moved to send **SJR 107** to the floor with a DO PASS recommendation. The motion carried by voice vote.

**Representative Clark** will sponsor SJR 107 on the floor.

**S 1416**

**Representative Dennis Lake** spoke in support of **S 1416**, legislation that codifies the provisions of SJR 107, a constitutional amendment to endow the Idaho Millennium Permanent Endowment Fund. Attachment 1 and Attachment 2 show what money we are talking about. Looking at 2006 you can see the money flowing into the fund and see a bump in amount coming to state. The attachments also show the transfers taken out in 2002 and 2003, the depletion of the funds, and the problem with earnings during this time.

Attachment 1 shows what happens if all funds are left in the Millennium Fund. Restrictions are placed on this fund and invests are made in securities only where the return is about 4%. If you follow down, you can see that by 2025 the balance in the fund would be about \$600 million. Attachment 2 shows the same information, except the investments are made in equities and could result in a balance of over \$1 billion.

Representative Lake said he has co-chaired the Millennium Fund Committee for four years and feels this is the appropriate way to go. This bill puts into code the Idaho Permanent Endowment Fund and allows the State Treasurer to invest funds in accordance with the standards of the Idaho uniform prudent investor act. A \$100 million dollar cap is placed on the Millennium Fund.

The provisions in the bill were briefly outlined. Page 1, Lines 29-31 provide for the creation of the Idaho Millennium Permanent Endowment Fund and specifies that 80% of the monies received from the master settlement agreement will be deposited in the fund. Page 2, Lines 11-15 indicate that we won't wait until the Millennium Fund reaches the \$100 million before 80% of the funds are deposited into the endowment fund. Twenty percent will continue to flow into the Millennium Fund until there is \$100 million. On Page 3, Lines 11-13 it states that "The Idaho Millennium Income Fund shall be managed by the state treasurer and uses of the fund will be determined by JFAC. Page 4, Section 11 states that if SJR 107 is adopted, the State Treasurer shall transfer \$10 million from the Idaho Millennium Fund to the Idaho Millennium Permanent Endowment Fund.

Representative Lake clarified that the moneys we are talking about here are tobacco money from the Master Settlement Agreement – money received from the tobacco companies. The tobacco money to be used for the Capitol restoration project is a tax on cigarettes and entirely different.

Regarding Idaho's track record of investments over the last five years, the record has not been good for any of the endowment funds. Over the last 25 years, the track record is excellent and beats the Dow. PERSI investments grew about 8%.

**MOTION:** **Representative Loertscher** moved to send **S 1416** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Lake** will sponsor S 1416 on the floor.

**ADJOURN:** There being no further business, the meeting was adjourned at 9:12 A.M.

---

Representative Steve Smylie  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 13, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Deal, Snodgrass, Garrett, and Hart

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Vice Chairman Smylie called the meeting to order at 9:05 A.M. with a quorum being present. There were no minutes to review.

#### **RS 16244**

**Representative George Saylor**, introduced **RS 16244**, legislation that extends the state's licensing requirements for child care providers. This RS is a revision to H 612. At the Health and Welfare Committee hearing for H 612, the Fire Marshals and others opposed the bill. It was decided to meet and resolve the issues before moving forward.

Current code provides for minimum health and safety standards for daycare centers with 13 or more children, but does not provide any regulation for those providing care for six or fewer children and very minimal regulation for those providing care for seven to twelve children.

This legislation would extend licensing requirements to all providers who provide care for compensation to two or more children, current exemptions excepted. Basic requirements would include health and safety inspections, fire inspections, criminal history background checks and infant CPR and first aid training. This legislation establishes new mixed age staff-child ratios, places prohibitions on sex offenders, and brings current code into consistency with existing administrative practices and rules.

There have been ongoing discussion regarding this legislation and revisions have been made. About 1,300 individuals have responded saying there is a need for these licenses.

A Committee member asked if the major revisions to this legislation dealt with the fire code, and Representative Saylor stated the major conflict was with the fire code, but another significant change appears at the bottom of Page 2 where it broadens the Department of Health and Welfare's authority to establish procedures for issuing licenses to family daycare homes, group daycare facilities and daycare centers.

To questions about how this legislation affects someone taking care of

two or three children in their home or a 16-year old high school student babysitting three children in a neighbor's home, Representative Saylor explained that there are exceptions given on Page 3. If someone takes care of two or more children not related, they would need to have a license. A high-school student babysitting on an occasional basis or for a summer would not need a license.

**MOTION:** **Representative Pasley-Stuart** moved to introduce **RS 16244** for printing. The motion carried by voice vote. Representatives Stevenson, Loertscher and Andrus wished to be recorded as voting "NO".

**S 1374** **Representative Max Black** spoke in support of **S 1374**, legislation that is intended to address an existing problem concerning personal information (social security numbers, birth dates, etc.) that is on file with agencies and businesses. High profile breaches of computer security have illustrated the need to ensure that Idaho citizens are notified promptly when their personal information is compromised – regardless of the location of the entity that experienced the breach. This legislation establishes a procedure for notifying citizens if their information is compromised and also sets forth oversight by various agencies.

If personal information on file at an insurance agency is tampered with and information is obtained by an unauthorized person, the Department of Insurance will oversee these compromises. If personal information on file with a bank or financial institution is compromised, the Department of Finance will oversee these instances. The Attorney General's office will oversee all other instances. Bankers and retailers have worked on this legislation. It is a simple bill establishing a procedure for individuals to be notified if their personal information is compromised.

A Committee member asked about the \$25,000 fine per breach that is outlined on Page 3, Lines 28-29. Representative Black explained that if a company has a breach of information, they must follow the procedures outlined in this legislation. If they do not comply and do not act to notify the individuals affected by this breach, they are subject to the fine.

**PRO** **Mr. Mike Brassey**, spoke in support of S 1374 on behalf of the Idaho Financial Services Association. He indicated he has worked on this legislation and feels it will help industry as well as individuals. He said he hopes the Committee acts favorably on this legislation because it is good legislation and is consistent with the statutes adopted by other states.

In response to a question about the process to be followed, it was clarified that if a company investigates a situation and determines a compromise of information does not exist, they would not have to notify anyone. If information was compromised they would notify the consumers in writing, through the media, or through an approved electronic format. If notice is not given as required, they are subject to a fine. If a breach is discovered at a later date, the company must prove they initially performed a good faith investigation and found no evidence of a compromise.

**PRO** **Mr. Patrick Collins**, general counsel for the Idaho Bankers Association, spoke in support of S 1374. Mr. Collins stated that he did work on drafting this legislation, and the legislation is similar to that of about half of

the states. Banks are currently subject to Federal laws governing personal information, and if they comply with the Federal laws, they comply with this law. The Idaho Bankers Association is in support of this legislation.

Representative Black closed by adding that as they looked at other states legislation, they found that some states have very complicated statutes that are vindictive towards businesses. Delaware's legislation seemed to be very straight forward and so the best was gleaned from their legislation for S 1374 to have a simple process that is not vindictive. Most people will do what they can to address this problem, but if they don't, Idaho will have a procedure in place to deal with violations.

**MOTION:** **Representative Ring** moved to send **S 1374** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Black** will sponsor S 1374 on the floor.

**ADJOURN:** Vice Chairman Smylie reminded the members that the meeting tomorrow will start at 8:30 A.M. There being no further business to come before the Committee, the meeting was adjourned at 9:37 A.M.

---

Representative Steve Smylie  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 14, 2006
- TIME:** 8:30 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representatives Black and Ellsworth
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 8:32 A.M. with a quorum being present. The first order of business was to review the minutes of Friday, March 10, 2006.
- MOTION:** **Representative Ring** moved to adopt the minutes of March 10, 2006 as printed. The motion carried by voice vote.
- HJM 22** **Speaker Bruce Newcomb** introduced **HJM 22**. Idaho is a sister state of Taiwan. Taiwan's achievements in the field of health care are substantial, and in recent years, Taiwan has expressed a willingness to assist financially and technically, the international aid and health activities supported by the World Health Organization. In light of the outbreaks of SARS and the bird flu, Taiwan has asked to join the World Health Organization. This memorial supports Taiwan's participation in the World Health Organization and asks that a copy of this memorial be sent to the President and Congress of the United States, to the Director-General of the World Health Organization, and the representatives of the Taipei Economic and Cultural Representative Office in the US.
- MOTION:** **Representative Shepherd** (2) moved to send HJM 22 to the floor with a DO PASS recommendation. She mentioned that her daughter works in Taipei and how impressed her daughter is with how they do business. The motion carried by voice vote. **Representative Ring** will sponsor HJM 22 on the floor.
- H 777** **Representative Wendy Jaquet** introduced **H 777**. The Committee was thanked for hearing H 777 and for discussing this legislation with her. Copies of the proposed amendments (Attachment 1); the notice from Lt. Robert Clements, Alcohol Beverage Control (Attachment 2); and three letters of support from Richard Kessler, Owner/Operator of the Magic Lantern Cinema (Attachment 3), Marshall Smith, President, Rocky Mountain Resort cinemas (Attachment 4), and Randy Hall, Ketchum Mayor (Attachment 5) have been made available.
- H 777 allows theaters that have been serving beer and wine by ordinance, as provided by the local city elected officials, to continue to do so. There

are a lot of communities in Idaho that would not think of allowing this type of activity, but in communities depending on tourism, activities of this type are viable. A lot of conversations with different Police Chiefs have taken place, and no problems have been reported. The Attorney General's office said this legislation carries "a hefty dose of responsibility." Director Charboneau, Idaho State Police, has offered that his department can prepare a checklist to guide communities in writing an ordinance.

A question was asked about whether cities could just pass a local ordinance, and Representative Jaquet said they cannot. Those theaters serving beer and wine thought they were in compliance until it was decided by the ISP that they were not in compliance with current statutes.

**PRO**

**Ms. Carole Skinner**, President of the Flicks Unlimited, spoke in support of H 777. The Flicks offers alternative type films such as art and foreign films. When the Flicks was opened it was decided to have a restaurant. A beer and wine license was applied for. The Flicks has become a center of entertainment in Boise – it is welcoming and fun and a place people bring their out-of-town guests.

Since 1984 they have been operating without experiencing any problems. They want to comply with the laws and they want clarification on this issue. Many of their customers are concerned and don't want to see the venue changed. It was stressed that no one goes to the flicks to get "hammered". They service mostly adults, but do feature family films on occasion. Their films are chosen very carefully, and they have no intention of serving beer and wine to underage young people. IDs are checked and activities are monitored.

Ms. Skinner said it is important to them to be contributors in the community – they are members of the Boise Chamber of Commerce and have held fund raisers and benefits at the Flicks. Ms. Skinner has been recognized and received awards from the Idaho Business Review and United Visions of Idaho.

**PRO**

**Mr. Brian Ballard**, Lawyer, Hawley Troxell Ennis & Hawley, spoke in support of H 777. He and his wife enjoy the Flicks, their restaurant and a glass of wine. He has never seen an incident of noncompliance. Mr. Ballard has had the pleasure of working with Lt. Clements on a number of alcohol related issues. Lt. Clements has perceived a problem with a practice that has gone on for a long time. This is a technicality that H 777 takes care of.

**PRO**

**Mr. Richard Kessler**, Owner of the Magic Lantern Theater in Ketchum since 1974, spoke in support of H 777. The liquor license for the Magic Lantern was applied for and granted in 1977 and has been renewed each year. Beer and wine have been served for 29 years and over 2 million customers have enjoyed movies at this theater. Routine inspections have been performed by the Idaho State Police, Alcohol Beverage Control, and their suggestions have been followed. Last summer, Lt. Robert Clements began questioning the legality of serving beer and wine in movie theaters. He did take time to listen, discuss and exchange thoughts on this issue.

Alcohol brought onto the theater premises is confiscated and disposed of

and backpacks are inspected or simply not allowed. The theater is patrolled every 15 minutes and the biggest theater is 150 seats with a light source of 2500 watts. Beer and wine sales account for 17% of his concession sales, and the ability to sell beer and wine is essential for the health of his business. H 777 addresses the issues, and Mr. Kessler asked that H 777 be given consideration for passage.

The question was asked whether the county has to approve the liquor license, and Mr. Ballard explained that you apply to the state for the license before the county or city can offer a license.

A clarification was asked for on the Statement of Purpose where it says "...ordinance by local city or county elected representatives". Representative Jaquet said that "or county" should probably be stricken from the SOP.

**MOTION:**

**Representative Smith** (3) moved to send H 777 to GENERAL ORDERS with Committee amendments attached and with a change to delete "or counties" from the Statement of Purpose. Representative Miller seconded the motion.

Representative Loertscher stated he has sat in the Committee and quietly voted "no" on legislation dealing with liquor licenses, but feels he needs to speak to this legislation. Growing up his family occasionally went to a movie. Today it is more and more difficult to take a family to a movie because of the subject matter, and serving alcohol is just one more reason not to take the family to a theater. It is a sad time in history because every time we pass an alcohol related bill, we do it for economics.

Representative Smith said she did go to the Flicks and enjoyed herself, but did not have a drink – this is an option.

Representative Pasley-Stuart said she has gone to the Flicks and found it to be enjoyable, but didn't drink – she is allergic to beer and wine. This legislation requires a city ordinance, drinking is optional, and this is a good bill. The Flicks monitors activities very carefully.

Representative Smylie referred to 23-614 being put in place because of adult theaters cropping up, and asked if Boise adopts this ordinance, could someone use the ordinance to open an adult theater. Representative Jaquet explained that is why, at the request of the Idaho State Police, that amendments were made to redefine "movie theater".

**VOTE:**

A vote was called for on the motion to send H 777 to GENERAL ORDERS with Committee amendments attached and to make a change to the SOP. The motion carried by voice vote. Representatives Loertscher and Andrus asked to be recorded as voting "NO". **Representative Jaquet** will sponsor H 777 on the floor.

**RS 16238**

**Representative Kathy Skippen** introduced **RS 16238**, legislation that resulted from a situation that came about from her serving on JFAC. Two recent reports from the Office of Performance Evaluations on the Management of Health and Welfare and Substance Abuse highlighted her



concerns about the size of Department of Health and Welfare and the huge responsibility they have for providing services. Fragile people get lost in the process. The results of the evaluation on the substance abuse program was appalling, but when trying to come up with questions, Representative Skippen found she just had opinions. Repeatedly agencies come to the legislature seeking funds, and substance abuse is at the base of many of the problems that affect many parts of state agencies. Many times when an individual struggling with substance abuse gets sober or quits using drugs, it is found that they have mental health issues. Approximately 27.5 million dollars is being spent and we can't say whose in treatment and what the success rate is for those who actually receive treatment.

This legislation supports the creation of an interim committee to evaluate the merits of removing the programs of substance abuse and adult and children's mental health from the Department of Health and Welfare, combining them into a new agency. The number of agencies Idaho can have is controlled by the Constitution, but since Commerce and Labor were combined, a slot exists for a new agency.

A concern was voiced by a Committee member that if this legislation passes, it will stop ongoing efforts proposed by a subcommittee that will help to transform mental health in Idaho. There is also a Senate bill on the third reading calendar that is a great piece of legislation. Representative Skippen responded that basically, the subcommittee would be the core of the proposed interim committee. This legislation should give that group more say, not less.

Another concern was raised about the crisis in funding and programs for substance abuse. Idaho receives an ATR grant from the federal government that provides \$7 million per year for three years. This money is in jeopardy if not managed properly. We need to continue to send the message that we can't wait until next year to do something. Representative Skippen responded that it was the ATR grant that started her down this track. When appropriating the grant money, it was made clear to the body that \$7 million of grant money would be going towards substance abuse programs, and when the grant is gone, the legislature will have to find a way to fund these programs or do without. There must be accountability and records of what we are getting for our money. The interim committee can look at whether we need to do something different, and it doesn't slow/stop current services. We have a problem and can't look the other way.

**MOTION:** **Representative Smylie** moved to introduce **RS 16238** for printing and to refer it to the Health and Welfare Committee. He thanked Representative Skippen for bringing this legislation forward and talked about his involvement in substance abuse issues when the Salvation Army ran a very successful 42-bed facility. Because the city and county could not agree on funding for this facility, the facility was closed. These programs get eliminated and there is a real need for effective, less expensive alternatives for treatment.

**VOTE:** A vote was called for on the motion to introduce RS 16238 for printing and to refer it to the Health and Welfare Committee. The motion carried by voice vote.

**H 570**

**Representative Darrell Bolz** introduced **H 570** with amendments. This legislation deals with names of applicants not being exposed. After H 570 passed out of this Committee, the Idaho Allied Dailies voiced concerns and H 570 was returned to the Committee. It looked like there would be no agreement this session. Thanks to the efforts of Mr. Jeremy Pisca, Idaho Allied Dailies, and Mr. Daniel Steckel, Department of Human Resources, it appears that everyone is now in agreement. The State Board of Education also had some concerns that were addressed by the amendment.

The amendment starting at the bottom of Page 4 reads: *"Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public."*

**MOTION:**

**Representative Stevenson** moved to send **H 570** to General Orders with Committee amendments attached. The motion carried by voice vote. **Representative Bolz** will sponsor H 570 on the floor.

**ADJOURN:**

Chairman Deal told the Committee that it is his understanding amendments are being made to H 741, the telephone bill. If this is the case and if most of the parties agree to the amendments, we will hear the bill on Friday. There being no further business to come before the Committee, the meeting was adjourned at 9:33 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 15, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Smylie and Ellsworth

**GUESTS:** Please refer to the Committee sign-in sheet and to the Presenters highlighted below.

Chairman Deal called the meeting to order at 8:35 A.M. with a quorum being present. The first order of business was the review of minutes for Monday, March 13, 2006.

**MOTION:** **Representative Bilbao** moved to approve the minutes of March 13, 2006 as printed. The motion carried by voice vote.

**RS 16239** **Mr. Roy Eiguren**, Attorney for Givens Pursley, introduced **RS 16239** at the request of Chairman Deal and Representative Black. Members of the Business Committee earlier considered H 500, legislation developed by the Idaho Department of Insurance. H 500 met with some opposition and was held.

Parties have since met with the Department of Insurance to develop consensus legislation to address concerns about multiple employer welfare arrangements or MEWAs. RS 16239 resulted from many meetings and negotiations with representatives from Amalgamated Sugar, Employers Resource Corporation, Idaho Bankers Association, Idaho Retailers Association, Idaho Milk Producers, Idaho Realtors Association, and the Idaho Department of Insurance.

In very short form, this legislation is designed to address significant problems and issues surrounding MEWAs. Federal law regulates self funded single employer plans offered by private employers, but does not regulate self funded plans offered by multiple employers. Idaho does not provide regulations for self-funded plans. This legislation is very important for the protection of consumers. All of the groups participating in the negotiations have either developed MEWAs or are in the process of developing plans for their employees.

The proposed amendments add a definition for multiple employer plans and require that self funded plans maintain adequate reserves to cover anticipated health claims, and maintain other stop loss coverage to protect against catastrophic losses. Quarterly financial summaries will be required by the Department of Insurance.

**MOTION:** **Representative Stevenson** moved to introduce **RS 16239** for printing and to refer it to the Business Committee. He thanked Representative Black and Chairman Deal for all of their help and time spent working through the negotiations. The motion carried by voice vote.

**RS 15502C3** **Representative Russ Mathews** introduced **RS 15503C3**, a joint memorial to the US Congress and to Idaho's congressional delegation asking that they oppose loans or aid considered by the World Bank, the International Monetary Fund and other international financial institutions that are not in keeping with the economic, environmental, and national security interests of the US. It was explained that earlier in the session a long, drawn out RS was drafted and was returned with major concerns. In talking with the Speaker, he suggested that State Affairs is the place to have this legislation considered. Senator Larry Craig's office also encouraged moving this legislation forward.

A Committee member asked for an example of the problem this legislation addresses. Representative Mathews explained that a consortium of 184 countries to help develop countries and create trade. Some of the poorer countries have over borrowed and are servicing debt rather than development. Some countries are producing products just to pay interest.

**MOTION:** **Representative Loertscher** moved to introduce **RS 15502C3** for printing. The motion carried by voice vote.

**RS 16175C1** **Mr. Skip Smyser**, Attorney, Connolly and Smyser, and representing his GemPlan clients introduced **RS 16175C1**. Last Friday, Representative Black worked with representatives from the Department of Insurance, the counties and the GemPlan to draft final legislation dealing with MEWAs for public agencies. There were 10 people in the room "hammering" this out. A couple of problems occurred in translating the changes to Legislative Services and a couple of changes and additions need to be made before printing the RS. These changes have been agreed upon.

**Mr. Shad Priest**, Department of Insurance, explained the corrections made this morning. On Page 3, Line 27 the words "and insolvency coverage" need to be deleted. On Page 8, Line 35 before the ")" the following needs to be inserted: ", except to the extent the rules pertain to coverage involving medicare".

**MOTION:** **Representative Smith** (30) moved to introduce **RS 16175C1** for printing and to refer the bill to the Business Committee.

Representative Ring asked about the deletion of the words "and insolvency coverage" and Representative Black said that coverage is not available. When asked if a plan does become insolvent is someone just out of luck, Representative Black said one of the purposes of this legislation is to require that plans are registered and quarterly and annual financial statements are filed with the Department of Insurance to give them a picture of the financial stability of the plan.

Representative Anderson asked about the language to be inserted on Page 8 and suggested it should read "except to the extent the rules pertain to medicare coverage". Mr. Priest agreed to this wording.

**VOTE:** A vote was called for on the motion to introduce RS 16175C1 for printing with changes and refer the bill to the Business Committee. The motion carried by voice vote.

Chairman Deal asked for a personal privilege to thank Mr. Smyser, Mr. Eiguren, Shad Priest and the group from the Department of Insurance, and Representative Black for keeping the momentum going on this effort. At least we have some registration of self funded plans that have come forward. These are health plans, not insurance.

**RS 16252** **Mr. Jayson Ronk**, Government Affairs Director, Building Contractors Association of Southwestern Idaho, introduced **RS 16252**. This legislative change is being requested to ensure proper representation on the Idaho Building Code Board. If printed, the legislation should be referred to the Business Committee.

Mr. Ronk was asked how many members currently make up the board. There are nine members on the board – one member of the general public, one local fire official, one registered engineer, one licensed architect, two local building officials (one from the county and one from the city), one homebuilder or general contractor, one representative from the modular building industry, and one individual with a disability representing people with all types of disabilities. RS 16252 proposes to add three additional homebuilders or general contractors and each would represent a region of the state.

**MOTION:** **Representative Pasley-Stuart** moved to introduce **RS 16252** for printing and to refer the bill to the Business Committee. The motion carried by voice vote.

**HJR 6 & HJR 7** **Mr. Roy Eiguren**, Attorney, Givens Pursley, indicated that he is not here on behalf of a client. Speaker Newcomb asked him to address the terms of elected officials. The provisions of HJR 6 and HJR 7 will be presented at the same time. Both of these pieces of legislation will help overcome an anomaly that occurs in the Constitution.

HJR 6 relates to the term of executive officers, and provides that the term of office for the Governor, Lieutenant Governor, Secretary of State, State Controller, State Treasurer, Attorney General and Superintendent of Public Instruction will begin at noon on the first Monday next in January following the election rather than starting at 12:01 A.M. Circumstances have been that Governors have conducted business until noon on the first Monday in January. HJR 6 deals with transitional power, and Speaker Newcomb, Carl Bianchi and others feel this anomaly needs to be dealt with.

In HJR 7, the same is true for the Legislature as their term commences at 12:01 A.M. on the first Monday next in December and occurs during the organizational session. Speaker Simpson assumed he was in charge until noon, and swore in the Legislators as a private citizen. California had an identical provision when Jerry Brown was elected Governor. He read the legislation literally and asked to be sworn in at 12:01 A.M. Mr. Eiguren jokingly indicated that Line 14 of HJR 7 could be amend to read “four-year term without a provision for parole”.

**MOTION:** **Representative Bilbao** moved to send **HJR 6** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Deal** will sponsor HJR 6 on the floor.

**MOTION:** **Representative Ring** moved to send **HJR 7** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Bilbao** will sponsor HJR 7 on the floor.

**S 1350a** **S 1350a** was presented by **Ms. Kris Ellis**, representing the Idaho Land Title Association. The amended language in this bill follows a similar bill brought forth by the Idaho Association of Counties. Ms. Ellis worked with the counties to come up with the language that is before the Committee. This legislation adds a mechanism for setting fees for electronic duplication of records produced in the County Recorder's Office. Some of the counties are using the recording statutes for duplicating information onto a disc and are charging 5-25 cents per page. Others are charging \$1.00 per page. A disc containing 200-300 pages could cost several hundred dollars – a fee that is prohibitive.

The proposed amendment provides that for duplication of recorded documents in excess of one hundred (100) pages or continuous copy requests for duplication of records using compact disc, zip disc, floppy disc or other electronic means, the fee shall not exceed the costs to the county recorder for the retrieval and duplication of the record.

Representative Hart was asked if the bill he presented and S 1350a are similar. He explained that H 718 deals with public records and not records produced in the County Recorder's Office.

A Committee member pointed out that there doesn't seem to be a time line set for determining these fees. Lines 9-10 of the amendment indicate the fees are recommended by the County Recorder and approved by the Board of County Commissioners. Ms. Ellis said this was a topic of discussion, but it was left up to the individual counties. Small counties like Kootenai charge 5 cents a copy and that isn't likely to change soon. Other counties experiencing large growth and that may need to purchase more equipment, may change their fees immediately.

It was asked if the Idaho Association of Counties has taken a position on this bill, and Ms. Ellis said "yes, they are in favor of the bill".

**MOTION:** **Representative Miller** moved to send **S 1350a** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Black** will sponsor S 1350a on the floor.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 9:15 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 16, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth and Snodgrass

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 8:35 A.M. with a quorum being present. The first order of business was to review the minutes of Tuesday, March 14 and Wednesday, March 15, 2006.

**MOTION:** **Representative Ring** moved that the minutes of March 14, 2006 be accepted as printed. The motion carried by voice vote.

**MOTION:** **Representative Pasley-Stuart** moved that the minutes of March 15, 2006 be accepted as printed. The motion carried by voice vote.

**H 570** **Representative Nicole LeFavour** thanked the Committee for printing **H 570**. The Secretary of State's Office has found an issue on Page 3, Line 15 where "shall" should read "may". In the interest of working with the Secretary of State's Office and with Senator Craig's Office, she said she has decided to have the legislation held. She indicated she would be bringing this legislation back next year and welcomed feedback from the Committee.

**MOTION:** **Representative Smylie** moved to HOLD **H 790** in the State Affairs Committee at the request of the sponsor. The motion carried.

**H 825** **Mr. Skip Smyser**, Attorney, Connolly and Smyser, spoke in support of **H 825**, legislation intended to regulate self-funded health plans offered to employees of governmental entities when more than one employer is involved. It has taken an incredible number of hours to develop reasonable legislation. In working with the Department of Insurance, they believe what is before you will protect county employees and their families. This has been a very informative process, and it was discovered there are an amazing number of MEWAs that have been developed or are in the works.

On Page 2, Section 41-4103, requires that joint public agency self-funded plans already in operation as of July 1, 2006 must register with the Department of Insurance within 90 days and lists the requirements for registration. Page 3 outlines what the plans must include, explains the application for registration, and specifies the documents that must accompany the application. Page 4, Section 41-406, provides substantial discretion for the Director of Insurance, ensuring this legislation meets the

intent. The Director may grant or deny an application. Page 4, Sections 41-4107 through 41-4109, describe how the trust fund moneys will be handled and outline the appropriate types of investments for the funds. Page 5, Section 41-4110, specifically enumerates a time frame for reserves, and Section 41-4111 sets forth the requirements for joint public agency self-funded plan records and reporting. It was found there are plans functioning out there, but no one knew how they were being operated. Page 6, Section 41-4113, provides the authority for the Department of Insurance to examine plan books, records and accounts.

The GemPlan is currently operating in 20 counties in Idaho, and with this legislation they will now be subject to regulatory oversight by the Department of Insurance and be required to comply with the provisions of Chapter 41, Title 41, Idaho Code. If a plan is not successful, the language on Page 7 describes how that plan is dealt with and how the trust fund is terminated. The remainder of the language in the bill is mandatory language.

When asked if the tax exemption found in Section 41-4112 gives GemPlan an edge, Mr. Smyser's reply was that this provision just recognizes these plans are governmental entities. It was clarified that mammography and "from the moment of birth" coverage is mandatory language because of previous actions by the Legislature demanding coverage. It was also clarified that the counties were involved in this legislation – the Chairman of the GemPlan is a County Commissioner and was present when they came to an agreement on this legislation.

**Mr. Gary Smith**, Director, Department of Insurance, spoke about the Department's perspective. **Joan Krosch** and **Georgia Hill**, Department of Insurance, were introduced. Mr. Smith said it came to their attention last year that many MEWAs were being developed and the law pertaining to MEWAs was ambiguous. The Department drafted H 500, legislation that made it clear if you operate a plan in Idaho you will be regulated in the strictest sense by the Department. It then became apparent that there were two "hybrids", and the Department felt that for consumer protection it was important they be involved in addressing both. H 825 will require the GemPlan to register, report and make their books available to the Department. Another piece of legislation will be considered tomorrow in the Business Committee to deal with the commercial side.

Page 2, Line 29 deals with registration which is critical. A plan was operating in Northern Idaho and no one knew it existed until the plan became insolvent, resulting in about a \$400,000 loss. Cases are still being adjudicated. Other important elements of this legislation are the trust fund requirements, working with an actuary, requiring reserve funds, requiring written statements of income, profit and loss from participants, and having the authority to terminate a plan. Any reviews or audits will be paid for by the Department.

Representative Black pointed out it is important the members understand that this legislation is not subject to the insurance code. The written plan is not insurance, but is a health plan and is not covered under the same guarantees as those plans regulated under the insurance code. There is a risk factor, and everyone needs to be aware and understand this.



**Mr. Todd Lakey**, Director, GemPlan, thanked Chairman Deal, Representative Black, and the Department of Insurance for their efforts on this legislation. It is an appropriate level of regulation, and it has been a fairly lengthy process to cover all of the bases.

**MOTION:** **Representative Ring** moved to send **H 825** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Black** will sponsor H 825 on the floor.

**H 795** **Representative Jim Clark** presented **H 795** in Representative Ellsworth's absence. This legislation comes from leadership and proposes to increase the salaries of the Public Utilities Commissioners, the Industrial Commissioners and the State Tax Commissioners by an amount equal to 3%. The salaries outlined on Page 1, Lines 24-25 and Page 2, Lines 8-9 come from dedicated funds. The money going to the State Tax Commissioners comes from the General Fund. This proposal is in line with the salary increases for state employees.

**MOTION:** **Representative Smylie** moved to send **H 795** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Ellsworth** will sponsor H 795 on the floor.

**S 1355** **Mr. Steve Guerber**, Director, Idaho State Historical Society, introduced **S1355**, legislation that was held earlier by this Committee to provide an opportunity for him to work with the parties in opposition. The recommendations of the Committee were taken to heart and the language was amended to indicate that only "state-owned historic structures" would be reviewed. A definition for "historic structures" was added in Section 3 of the bill. All references to the "State Historic Preservation Office" were replaced with "The State Historical Society". It is felt the changes deal with the Committee's desires on this legislation.

A discussion followed and Mr. Guerber responded to the following questions/concerns voiced by Committee members:

- Boise just passed their school bond and if East Junior High becomes owned by the state/BSU, would this legislation give you the authority to review the proposals for this building? Copies of any proposals made by Boise State University or the final state entity would be reviewed by the Historical Society and their recommendations for minimizing impacts would be given. The same is true for the historic College Drive-in and homes near BSU that were recently purchased by BSU. On any state-owned historic structures, the Historic Society would provide comments for consideration, to point out things that might have been overlooked.
- Did you got together with the Farm Bureau and Food Producers? Mr. Guerber said the Farm Bureau still opposes the legislation. A presentation was given to the Food Producers' Legislative Committee, but no comments were received back from them. The Farm Bureau's opposition stems from their policy not to expand the SHPO nor their funding.
- The fiscal note is not accurate -- there has to be an impact if you are setting up a new program. Mr. Guerber said the fiscal note was changed when amendments were made, but the Historical Society has the option of reviewing projects. It is anticipated that projects will be reviewed by existing staff. Major projects will require more time, but window replacements, etc. will require minor reviews. The Historical Society's

interpretation of fiscal impact is they don't need additional funds.

- How many buildings that are 50-years old come online each year? Mr. Guerber indicated that buildings may have historical significance even if they are just 30 years old. Ms. **Susie Knight**, Historical Society, was called upon to address the number of buildings. She stated they do not have an inventory of state buildings, but are working with state lands to get that information. The U of I has 60 buildings, but not all are of historically significant. Lots of state agencies get federal money so the Historical Society already reviews those projects. Currently there is no tracking mechanism in place to gather this information and this legislation will help.
- Will agencies be notified as soon as the Historical Society determines there is no action to be taken? Mr. Guerber said as long as he is there he anticipates agencies will be notified by letter right away.

## CON

**Mr. Dennis Tanikuni**, Idaho Farm Bureau, clarified that Mr. Guerber did meet with the Food Producers on March 8 and no action was taken by the Food Producers. Everyone understands the rich history of our state. The substitutions/changes made to the legislation do make it more consistent. The Farm Bureau still has two major concerns and those are with the definition/type of projects they will review and the dollar amount involved with the reviews.

Because he is a linear thinker, Mr. Tanikuni said he began to think of all the state-owned property that would be impacted, i.e. AG research stations, farming operations of the U of I, and the research ranch at Salmon. The scope is much broader than we think. The universities were contacted to see how many buildings they have, how old they are, and how many construction projects they do per year. The expansion area at BSU is a 13-block area. There is a lot of old student housing and many are 50 years old. The projects are undefined and the dollars are undefined and this is a very significant undertaking. Some of the public works employees said getting information from the Historical Society is very slow and their recommendations may involve greater expenses. A concern was voiced about the number of people they might have to hire to deal with the paperwork. The university projects are fairly significant and the construction window is from May through August. It is felt the 30-day window will create increased costs and problems with contractors.

In conclusion, the Farm Bureau believes S 1355 will create additional work because of mandatory requirements, and they still oppose this legislation in the interest of a smaller, more efficient government.

**Mr. Marty Peterson**, University of Idaho, stated that the university does not have a position on S 1355. Mr. Peterson did an initial review of S 1355 and his concerns were twofold: (1) how do you identify at the university what are and are not historical buildings and (2) as drafted he felt the legislation covered all buildings. Since his initial review, conversations have taken place and a list of buildings at UI has been put together. The amendments made have tied the review to projects for state-owned historical buildings. He had productive discussions with the Historical Society about his concerns.

Mr. Peterson then responded to questions from the Committee and provided the following information. He said his only experience regarding the scope of construction involved is that he owns a house on the

National Register of Historic Places and works with an organization that is restoring a historic building from Silver City. Common sense needs to be applied. The Historic Society has come in on these projects and offered advise and at times there suggestions are accepted and at times they are not. Only significant projects will be affected, not general maintenance.

When asked about the funding mechanism for the reviews and whether there is anything that keeps a person from going to the Historical Society to ask questions, Mr. Peterson indicated that anyone can go to them and have assessments made. Were this bill not passed, this may clearly still be done. One thing that can be done in collaboration is to increase the sensitivity of building maintenance personnel so they know when to seek consultation.

A concern was voiced about the bill not being clear about exterior improvements requiring Historical Society review. Mr. Peterson indicated he had a whole paper trail that says that the review would only apply to exterior construction.

Another concern was voiced about how significant historical value will be distinguished, and it was felt any building on state land would come under the Historical Society purview.

**Mr. Guerber** concluded by pointing out that the only buildings affected are those that are placed on the National Register of Historic Places. The Historic Society does not have a problem with those who work with them, just those who do not work with them. There are hundreds of historic state buildings that have no protection. At ISU a historic statue was painted when it could have been sealed with sandstone. Nothing is mandatory except for the paperwork done up front and this paperwork could be done at the time of the bid process. Thinking about preservation of history needs to be incorporated into the thought process, and this will not happen without legislation. People are deciding what to do without no thought of preservation.

**MOTION:**

**Representative Anderson** moved to hold **S1355** in Committee.

**SUBSTITUTE  
MOTION:**

**Representative Smylie** made a substitute motion to send **S 1355** to GENERAL ORDERS with Committee amendments attached. He referred to his experience in the construction business and said he learned how important it is to “measure twice and cut once”, and that is all this bill is trying to do. He said the Historical Society has made the parameters very narrow.

Representative Pasley-Stuart spoke in opposition to the substitute motion, saying she believes this is an inappropriate bill because state agencies currently have the ability to seek advise. This legislation will result in additional costs, FTE and paperwork.

**VOTE ON THE  
SUBSTITUTE  
MOTION:**

A vote was called for on the substitute motion to send **S 1355** to GENERAL ORDERS with Committee amendments attached. The motion failed by voice vote.

**Representative Anderson** spoke in support of the original motion to HOLD S 1355 in Committee, saying the Historical Society already has the ability to identify state-owned historic structures as they did at the U of I and buildings don't have to be 50 years old to trigger a review.

**VOTE ON THE ORIGINAL MOTION:**

A vote was called for on the original motion to HOLD S 1355 in Committee. The motion passed on a voice vote. Representatives Smylie, Smith and Miller asked to be recorded as voting "NO".

**ADJOURN:**

Chairman Deal informed the Committee that the telephone bill will not be heard this session. There being no further business, the meeting was adjourned at 9:44 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 17, 2006
- TIME:** 8:30 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representatives Ellsworth, Black, Ring and Pasley-Stuart
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 8:35 A.M. with a quorum being present. There were no minutes to review.
- RS 16234** **Mr. David Lehman**, Governor's Office, introduced **RS 16234**, legislation to allow the interest accrued in the Idaho Guard and Reserve Family Support Fund to remain with and become part of the fund. The way the fund was set up last year allowed the interest accrued to revert into the General Fund. This fund was established last year by the Governor with a \$100,000 line item – Albertsons donated \$250,000. The present value of this fund is just under \$400,000. About \$150,000 in assistance has been used to help families of the Guard and Reserve.
- MOTION:** **Representative Loertscher** moved to send **RS 16234** to print and to refer it to the Second Reading Calendar. The motion carried by voice vote. **Representative Loertscher** will sponsor the bill on the floor.
- RS 16235** **Mr. David Lehman**, Governor's Office, introduced **RS 16235**, legislation to amend Idaho Code, Section 46-609, to authorize the Adjutant General to call Guard members on a voluntary basis to perform state-related duties. Types of duties might include formal state functions and ceremonial functions. The Governor would continue to be able to call up Guard members on an involuntary basis to perform state duties. Mr. Lehman asked that this legislation be printed and referred to the Transportation and Defense Committee.
- It was clarified that currently, the Governor's signature is required to call troops on a voluntary basis. With the passage of this legislation, the Adjutant General could call troops on a voluntary basis without the signature of the Governor.
- MOTION:** **Representative Miller** moved to introduce **RS 16235** for printing and to refer the bill to the Transportation and Defense Committee. The motion carried by voice vote.

**RS 16255**                    **Representative Frances Field** (23) introduced **RS 16255**, indicating that this is a much improved version of HJM 17. Representatives Hart and Ellsworth and the Attorney General's Office worked with her on the language. Congressmen Larry Craig and Butch Otter are among the sponsors of S. 520 and H.R. 1070, legislation requiring greater accountability for the judicial system, especially the Ninth Circuit Court.

**MOTION:**                    **Representative Hart** moved to introduce **RS 16255** for printing. The motion carried by voice vote.

Two of the Committee members asked Representative Field (23) to bring a summary of the bill and examples of what matters Lines 22-27 would be addressing when the hearing is held on the bill. She agreed to do so.

Chairman Deal took a few minutes to thank the Committee and to let them know how much he appreciates the work they each have done this session. He said this Committee is the best in the Legislature.

**ADJOURN:**                    There being no further business to come before the Committee, the meeting was adjourned at 8:45 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 20, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth

Chairman Deal called the meeting to order at 8:35 A.M. with a quorum being present. The first order of business was to review the minutes of Thursday, March 16 and Friday, March 17, 2006.

**MOTION:** **Representative Bilbao** moved to accept the minutes of March 17, 2006 as printed. The motion carried by voice vote.

**MOTION:** **Representative Smith** (30) moved to accept the minutes of March 16, 2006 as printed. The motion carried by voice vote.

**HJM 23** **Representative Russ Mathews** introduced **HJM 23**, a joint memorial to the US Congress and to the congressional delegation representing the State of Idaho to oppose loans or aid considered by the World Bank, the International Monetary Fund and other international financial institutions that are not in keeping with the economic, environmental, and national security interests of the United States.

The International Monetary Fund (IMF) is an international organization of 184 member countries. It was established to promote the international monetary system, exchange stability, the orderly exchange arrangements, and to foster economic growth on an international scale. The World Bank works in tandem with the IMF and provides financial and technical assistance to countries around the world.

What this joint memorial does is ask elected representatives who are electors or directors in these organizations to use their voice and vote to hold up loans that are questionable and are not in keeping with healthy economic prosperity for our international trade partners.

This memorial does not address custom duties (taxes levied on imported or exported commodities shipped into and out of the U.S.) nor does it deal with tariffs (a system of duties that can be imposed by a government on goods). This bill does not get into how the economic trade community does business. This is a loan underwriting process and the U.S. representatives account for about 18% of the electors voting in these organizations. When going through the risk management process, the representatives determine whether a loan makes sense or not.

Examples of loans made by the multi-lateral organization that have not gone well would be those in Granada where money to be used to develop airports for tourism was diverted to develop airports for military expansion. Another example is when loan money is diverted into the Swiss bank accounts of high ranking government leaders from other countries.

Representative Mathews closed his remarks by reading from the memorial starting on Page 1, Line 27. This language outlines the economic, environmental and social conditions that must be met and the steps to be taken to discourage wrongful investments.

Representative Bilbao commented that the largest dollar volume in balance of payments, from IMF itself, is from commercial airplanes. If we took what is being proposed against China, who is largest buyer of airplanes, our balance of payments would drop off significantly because of environmental or other issues. Trade with countries that may not live and work as we do in this country cannot be one of items that hinders our balance of payments or we will go so far in debt that we will become broke. We have to continue this large dollar item of commercial airplanes. In checking with the International Department of the Boeing Company they are in agreement.

Representative Mathews reemphasized this is not a tariff of any sort nor a duty and it is not pretentious. This is a guideline of encouragement to have our executive directors encourage healthy, economic, social/political behavior. At some point and some time “we need to analyze when to say when or if we should say when”. This is a joint memorial sent to Congress to ask that they start addressing these issues. This is not intended to ostracize China or any other country.

Representative Snodgrass asked if the term “international financial institutions” is defined in Idaho Code or elsewhere. Representative Mathews said he doesn't believe it is defined in Idaho Code, but it is commonly used by federal government multi-lateral institutions. Representative Snodgrass referred to the use of “international financial institutions” in Lines 35-36. It seems any international financial institution may operate inside and outside of the U.S. and many of these are private financial entities that would not need this kind of scrutiny from the government. Is this definition too broad and should it reference more specifically the World Bank and the IMF?

Representative Mathews indicated that it was the intention that this definition be left broad to give Congress flexibility. Other financial institutions under the umbrella of the World Bank and IMF are the International Bank of Reconstruction and Development and the International Development Association. These entities concentrate on low interest loans and other assistance to the poorest countries. This is not about tariffs or duties – they contribute to trade wars. This is about underwriting issues for determining the best way to handle loans.

Representative Anderson, referred to the language on Page 1, Line 19 that reads “...approve loans to countries whose policies are consistent with the economic, environmental and national security...” It was asked what Representative Mathews discovered about the “environmental” constraints because some of the third world countries bordering the U.S.



still allow the use of DDT to save lives from malaria? This language is broad, but it seems this is a “drag net”, and we will be able to throw out the net and whoever gets caught doesn’t get a loan.

Representative Mathews responded that the concern was well noted, but again we want to be sure that we address the issue but not hinder Congress in any way.

**MOTION:** **Representative Loertscher** moved to send **HJM 23** to the floor with a DO PASS recommendation. It is understood what this memorial is trying to achieve, and too often the loans are made with the backing of the U.S. without regard to the countries ability to repay the loans. A lot of loans made allow those countries to directly compete with our domestic industries. No loan should be made unless there is a means for repayment. As loans are made it should be taken into account how loans are structured. We get the double hit by having to forgive loans and having to compete with products coming from those countries.

**SUBSTITUTE MOTION:** **Representative Snodgrass** made a substitute motion to HOLD **HJM 23** in Committee. Some great ideas are a part of this, but the definition is really broad and would include those financial institutions operating inside and outside of the U.S. The U.S. has a significant presence on both the World Bank and IMF, and they are doing a reasonably good job at trying to make sure they are not putting forth policies and ensuring we do what we need to do to help countries internationally.

Representative Bilbao debated in support of the substitute motion based on the language in Lines 18-21 about environmental issues and loans for economic value. We have not had problems with nonpayment.

**VOTE ON THE SUBSTITUTE MOTION:** A vote was called for on the substitute motion to HOLD HJM 23 in Committee. The substitute motion passed by a voice vote and HJM 23 will be HELD.

**S 1437** Chairman Deal informed the Committee that S 1437 would be moved to the top of Tuesday’s agenda because Pro Tem Geddes needs to be in the Senate State Affairs Committee.

**SJM 119** **Mr. Bryan Fischer**, Executive Director, Idaho Values Alliance, introduced **SJM 119**, a memorial requesting that Congress support the Constitution Restoration Act (S 520, HR 1070). Attachment 1 contains Mr. Fischer’s letter to the Representatives, letters from Congressmen Larry Craig and Butch Otter, a copy of S 520, and an article from *CitizenLink*, dated September 26, 2003. These documents were referred to during the testimony.

The Constitutional Restoration Act on the federal level is an effort to deal with the judicial activism we have observed over the last four decades and the runaway federal judiciary that has been inclined to legislate from the bench. Examples of restricting religious liberty are prayer and Bible reading in public schools, public posting of the Ten Commandments, a federal judge dictating to the Chaplains in the Indiana House of Representatives the content of prayer to be used, and the acknowledgment of God in the pledge of allegiance. These restrictions are not coming from the legislators, but from judicial decisions.

Mr. Fischer quoted from "The Wisdom of Abraham Lincoln": "If the policy of the government upon vital questions affecting the whole people is to be irreversibly fixed by the decisions of the Supreme Court, the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that imminent tribunal".

There have been a number of efforts to restrain judicial activism, and Article III, Section 2 of the federal constitution has been used to do so. Congress has been given the authority by the federal constitution to limit the authority of the federal judiciary. The Constitution Restoration Act uses these constitutional provisions. S. 520 reads "Notwithstanding..., the Supreme Court shall not have jurisdiction to review, ... concerning that entity's officer's, or agent's acknowledgment of God as the sovereign source of law, liberty, or government." The bottom line effect of the Constitution Restoration Act is to protect the pledge of allegiance, "in God we trust" as our national motto, and the public posting of the Ten Commandments.

Idaho has experienced judicial activism. It was the ninth circuit court of appeals that determined the phrase "under God" was unconstitutional. The Supreme Court overturned that decision. On a more immediate level, a federal judge dictated to the Boise Rescue Mission its ministry policy and the Boise City Council had the Ten Commandments monument removed from the Julia Davis Park.

The *CitizenLink* article found in Attachment 1 indicates that we are seeking nothing that has not been sought throughout history. The language protecting the Black Hills National Forest in South Dakota made reference to actions not being subject to judicial review by any court. There are several other laws that invoke Article III, Section 2 of the federal constitution.

Congressmen Craig and Otter are co-sponsors of S. 520 and HR 1070, and Congressman Craig voiced his pleasure that Idaho has moved forward with SJM 119 to support his efforts.

## **PRO**

**Representative William Sali** spoke in support of SJM 119. As you look at SJM 119 there is a great deal of reference to the Ten Commandments, and one person felt that this reference was overstated in SJM 119. The language of the memorial is important because the resolutions in Congress propose three things: (1) federal courts are limited in their jurisdiction over elected officials acknowledgment of God; (2) federal courts are prohibited from using international law in interpreting the federal constitution; and (3) if a federal judge violates one of those two provisions they can be impeached or found not to be in good behavior.

SJM 119 demonstrates that the Ten Commandments are really at the heart of our system of law. There are a number of courts that recognize the Ten Commandments as the foundation of law in this country – criminal courts.

The phrase "under God" made our pledge of allegiance. When we as elected officials take a step to cite the pledge of allegiance at the second order of business each day and offer prayer each day, we as elected

officials “acknowledge God as the sovereign source of law, liberty and government”. We will not be overruled by a federal court that is acting outside of that precedence in law that has stood for centuries.

**PRO**

**Allan Gorin**, Eagle, Idaho Representative of Toward Tradition, a National Coalition of Jew and Christians, spoke in support of SJM 119. As a Jew, Mr. Gorin has had considerable experience working with Idahoans of various religions and denominations, especially those of the Christian right. He said he is much less fearful of those who talk about God in the public schools than those who play God. By mentioning those who play God, he is referring to judges at the federal level who interpret the constitution according to their own beliefs/convictions and legislate from the bench. He believes the evolution of judges playing God was inevitable because he shares the belief that power tends to corrupt. Consider the power of judges who (a) view the Constitution as a living document and interpret it according to their values; (b) are appointed for life; (c) are not subject to the same checks and balances as the legislature; and (d) are esteemed by our culture.

Three solutions were offered: (1) determine constitutional ways to re-insert checks and balances. Article III, Section 2, is an example of checks and balances being bi-directional; (2) display a will, on the part of legislators, to assert these tools – can take a cue from the inappropriate filibuster threatened during the Aledo confirmation; and (3) follow wisdom of a baseball legend who said “don’t put them on a pedestal, they put their pants on the same way we do”.

**PRO**

**Mr. Richard Orr**, Citizen, spoke in support of SJM 119, saying he is concerned when our rights go by the wayside. He is a veteran that has served his country. He wished to endorse Mr. Fischer’s comments on these issues to ensure our past contributions and future rights do not go by the wayside.

**PRO**

**Mr. Ryan Davidson**, Liberty Lobby of Idaho, would support this joint memorial, but is concerned with the Congressional memorial referenced. He was concerned about the Supreme Court rejecting challenges and recommended a “saving clause” that we give specific instructions to Congress to take alternative actions if the jurisdiction is challenge. He suggested striking out “under God” in the pledge of allegiance, because it is something imposed on school kids. He stated he supports all other provisions – posting of the Ten Commandments does no harm because no one is forced to do anything. The originator of pledge of allegiance was a socialist and the idea was that we would be subservient to our government. Americans should not pledge allegiance to the flag but to liberty so that governments may not overstep their bounds. His objections were not to referencing God. He supports the bill, except for using the phrase “under God” in the pledge of allegiance.

**PRO**

**Ms. Brandi Swindell**, Co-Director of the Ten Commandments Coalition, represented 19,000 citizens who signed the petition supporting the return of the Ten Commandments to Julia Davis Park. Ms. Swindell, as Director of Generation Life, also represented students, artists, musicians and professionals who believe in religious freedom and the restraint of the judiciary. Ms. Swindell believes strongly in protecting religious symbols in

the public square and stands with most Idahoans who believe religious expression is critical to our society.

The statistics are overwhelming, and it is overwhelming the number of American citizens who believe in religious symbols in the public square. About 75% of Americans support posting of Ten Commandments and 90% support the phrase "one nation under God". In 2004, 72% of Boiseans disagreed with the City of Boise's decision to remove the Ten Commandments – people who believe in religious expression and in the universal truth in the Ten Commandments. We all know we are better off when we do not lie or steal, murder.

This memorial allows people to protect their constitutional rights of religious freedom. The constitution says "freedom of religion" not "freedom from religion". Ms. Swindell reminded Mr. Davidson that the pledge of allegiance is voluntary.

**MOTION:** **Representative Smylie** moved to send **SJM 119** to the floor with a DO PASS recommendation. Representative Hart requested a roll call vote. The motion passed by a vote of 16 "AYES" and 1 "NAY". Representatives Deal, Smylie, Stevenson, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd (2), and Smith (30) voted "Aye". Representative Pasley-Stuart voted "Nay". **Representative Sali** will sponsor SJM 119 on the floor.

**ADJOURN:** Chairman Deal informed the Committee that S 1437 will be considered tomorrow. There being no further business to come before the Committee, the meeting was adjourned at 9:43 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 21, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Ellsworth

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 8:34 A.M. with a quorum being present. There were no minutes to review.

**S 1437**

**Pro Tem Robert Geddes** introduced **S 1437**. The Constitution requires the legislature to set salaries prior to the election for statewide elective officials. In November, Carl Bianchi was tasked with assembling information on elective officials salaries and comparisons of past and current elective officials salaries were provided. Because of the constitutional prohibition, if elective officials' salaries are not increased by statute during the 2006 session, there will not be another opportunity to increase their salaries until January 2011.

In 2002, we got into a situation where the elective officials salaries were not approved, and from 2003 to 2006 there has been no increase. A partial year increase would begin in 2007 and an annual increase would begin in January 2008. The chart provided in the fiscal note makes it clear what the impact would be each year.

In 1998, H 751 was test legislation that put in place stepped increases. This provision was never challenged and therefore, it has been taken on faith that this is acceptable if put in place before the election. Attachment 1 shows a 20-year comparison with the CEC showing state employee salary increases. Attachment 2 provides the Consumer Price Index figures indicating that in some cases the salaries are close, but in others they are below the CPI. A listing of state employees with annual salaries greater than or equal to \$98,500 can be found online. It is quite telling to see how many employees are paid more than the elected officials.

Pro Tem Geddes stated that valid and worthy points of discussions to amend this legislation are acceptable, but it would be irresponsible of the Legislature to go another four years without providing an increase for our elected officials.

**Mr. Allyn Dingel**, Lawyer, addressed S 1437 saying many times Leadership calls upon an "old lobbyist". Mr. Dingel said he was impressed by the State Affairs Committee's action eight years ago when they introduced legislation for stepped increases during the 4-year term. The Constitution does not prevent stepping salaries -- you just can't

change this while the elected officials are in office. The salaries of the State Treasurer, State Comptroller, and the Secretary of State are locked in where the Attorney General falls into a higher pay group, and the salary for the Lieutenant Governor has been “struggled with”. This legislation does not come saying we need to pay these individuals the same as CEOs. This is a bipartisan situation treating elected officials fairly.

**MOTION:** **Representative Bilbao** said he has given this legislation a great deal of consideration the last few days. In looking at the 3% raise given to state employees, he moved to send **S 1437** to General Orders with Committee amendments recommending a 4% increase rather than a 5% increase.

**SUBSTITUTE MOTION:** **Representative Pasley-Stuart** offered a substitute motion to send **S 1437** to General Orders with Committee amendments attached recommending an 11.68% increase over a 4-year period. This percentage of increase would equal the state employee increases for the past four years and provide salary equity. Idaho is not having difficulty finding candidates to run for office, and the fact that other department heads are making a great deal more doesn't seem to be a problem. This level of increase would be fair, equitable, appropriate and would provide an approximate 2.9% increase per year.

**AMENDED SUBSTITUTE MOTION:** **Representative Snodgrass** offered an amended substitute motion to send **S 1437** to the floor with a DO PASS recommendation. It appears that a lot of work has gone into this legislation. To catch up sounds good, but there are others like teachers who haven't received pay raises. We don't seem to have difficulty finding people to run for state offices. Those who have worked on this legislation were congratulated.

Chairman Deal restated the motions before the Committee. Representative Hart spoke in support of the amended substitute motion. Representative Ring spoke in support of the amended substitute motion, pointing out that looking at the fiscal impact of a 5% raise for six people is far less of an impact than the 3% increase for state employees.

Representative Stevenson debated against the amended substitute motion saying it was a struggle giving the state employees a 3% raise and here we are proposing a 5% raise for four years. We are not talking about the same type job description, and the pay for these positions is known. Representative Black spoke in opposition to the amended substitute motion and in favor of the compromise position of a 4% raise.

Representative Smylie declared Rule 38 that as a candidate for the Superintendent of Public Instruction he would not be voting.

**VOTE ON THE AMENDED SUBSTITUTE MOTION:** A roll call vote was taken on the amended substitute motion to send **S 1437** to the floor with a DO PASS recommendation. The motion failed by 4 “AYES” and 12 “NAYS”. Representatives Edmunson, Ring, Snodgrass and Hart voted “AYE” and Representatives Deal, Stevenson, Black, Miller, Garrett, Loertscher, Anderson, Andrus, Bilbao, Shepherd (2), Smith (30), and Pasley-Stuart voted “NAY”. Representative Ellsworth was excused and Representative Smylie did not vote under Rule 38.

**VOTE ON THE SUBSTITUTE** A roll call vote was taken on the substitute motion to send **S 1437** to General Orders with Committee amendments attached recommending an

**MOTION:** 11.68% increase over a 4-year period. The motion failed by 4 “AYES” and 12 “NAYS”. Representatives Miller, Andrus, Smith (30) and Pasley-Stuart voted “AYE” and Representatives Deal, Stevenson, Black, Edmunson, Ring, Snodgrass, Garrett, Loertscher, Anderson, Hart, Bilbao and Shepherd (2) voted “NAY”. Representative Ellsworth was excused and Representative Smylie did not vote under Rule 38.

**VOTE ON ORIGINAL MOTION:** A roll call vote was taken on the original motion to send **S 1437** to General Orders with Committee amendments recommending the 5% salary increase be changed to a 4% increase. The motion passed by a vote of 13 “AYES” and 3 “NAYS”. Representatives Deal, Stevenson, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Bilbao, and Shepherd (2) voted “AYE”. Representatives Andrus, Smith (30), and Pasley-Stuart voted “NAY”. Representative Ellsworth was excused and Representative Smylie did not vote under Rule 38. Representatives Moyle and Denney will sponsor S 1437 on the floor.

**RS 16262** **Mr. Jack Lyman**, Lobbyist, introduced **RS 16262** to be printed and referred to the Environment, Energy, and Technology Committee. Mr. Lyman worked with the Department of Environmental Quality to bring together a variety of requirements and legislative intent. In establishing water quality standards, this resolution encourages the Department of Environmental Quality to fully consider (1) natural conditions, (2) changes in the state water quality standards only when there is broad agreement among affected parties, and (3) fully utilize the flexibility available under federal and state laws in administering water quality programs.

A discussion followed, and Mr. Lyman and Director Hardesty responded to Committee questions. Regarding the question about the term “broad agreement” used on Page 2, Line 10, it was explained that broad agreement means a substantial number of members being in agreement. From a Department perspective, when going through rule making, a consensus is sought, but when dealing with mandatory requirements under the Clean Water Act, the agency seeks a majority or broad agreement, but may be required to move forward.

In response to a question about the standards not applying to manmade water ways on Page 1, Line 35, it was explained that under the Federal Clean Water Act, the standards apply to waters of the United States and requirements are restricted to those waterways. Regarding the language on Page 1, Lines 37-40 stating that “...drinking water standards may not be appropriate for use as water quality standards ... as in the case of arsenic”, it was clarified that it is not the intent to have elevated arsenic levels become the standard.

**MOTION:** **Representative Smylie** moved to introduce **RS 16262** for printing and to refer it to the Environment, Energy and Technology Committee. The motion carried by voice vote.

**ADJOURN:** The meeting was adjourned at 9:06 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary





## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 23, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Garrett

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 8:32 with a quorum being present. The first order of business was to approve the minutes of Monday, March 20 and Tuesday, March 21, 2006.

**MOTION:** **Representative Stevenson** moved to approve the minutes of March 20, 2006 as printed. Representative Miller pointed out that on Page 5, the name "Randi" should read "Brandi". The correction was so noted and the motion carried by voice vote.

**MOTION:** **Representative Pasley-Stuart** moved to approve the minutes of March 21, 2006 as printed. The motion carried by voice vote.

Chairman Deal briefed the Committee on the procedures for the hearing. Representatives Ringo and Pasley-Stuart will present H 843. Sixteen people signed up to testify, and testimony will be limited to three minutes to give each one the opportunity to testify. The House goes on the floor at 10:00 A.M. and it is planned to allow time for the Committee to consider the bill and vote.

**H 843** **Representative Shirley Ringo** introduced **H 843**, legislation proposing to raise Idaho's minimum wage. There has not been a change in Idaho's minimum wage since 1997. The details of the legislation were outlined.

- (1) H 843 proposes raising the minimum wage from \$5.15 to \$6.15 on July 1, 2006. Beginning on September 30, 2006 and each succeeding September 30 the minimum wage would be increased based on the US Department of Labor's consumer price index (CPI) for urban wage earners.
- (2) H 843 raises the percentage for "amount in excess" from 33% to 35% for tipped employees. It is believed tipped employees' wage will increase because of tips actually received by the employee.
- (3) H 843 addresses the training wage, the wage to be paid in the first 90 days. Currently, beginning employees who haven't reached 20 years of age are paid \$4.25 per hour. This legislation proposes to change the age from 20 to 18 years of age and to raise the wage per hour to \$5.08.

**Representative Pasley-Stuart** thanked the Committee for allowing a hearing on this legislation. Everyone should have the opportunity to earn a decent wage. Minimum wage employees make \$10,712 a year, working 2,080 hours. This is equally true for a middle-class youth working to pay for college and for a single mother supporting a family. It is about fairness, dignity and the worthiness of people and work.

Idaho's current minimum wage is \$5.15 per hour, and 32,119 or 5.7% of Idaho's workforce is making less than \$6.15 per hour. Their average wage is \$5.73 per hour which is \$.42 below the proposed \$6.15. The estimated collective cost to Idaho from this proposed increase would be approximately 24 million or 1/10 of 1% of the statewide payroll of \$16.9 billion in 2004.

In real inflation dollars, minimum wage has fallen by 40%. The current minimum wage of \$5.15 today is the equivalent of \$4.23 in 1995. Idaho must compete with the bordering states of Oregon, Washington, and Nevada – these states have increased and indexed their minimum wages. Even with the \$1 an hour increase, minimum wage earners will still not be able to afford the necessities like health insurance. Wal-Mart routinely passes out state benefit forms to their new hires.

Studies show a significant economic gain in states that have raised their minimum wage. Proponents of the minimum wage fear loss of jobs and this is not true. It was found that employment actually grows. In 2001, 83% of Americans were in favor of raising the minimum wage. Vote for the dignity of work and the dignity of Idaho's low-wage and middle income earners. (Refer to Attachment 1 for full testimony).

In response to Committee questions Representative Pasley-Stuart clarified the following:

- Of the \$1.00 increase it is thought the net gain would be about .75 cents.
- The increases experienced by a business would come from unemployment and workmen's compensation.
- It was evident that minimum wage increases were specifically considered in the information researched.

**PRO**

**Representative Tom Trail** spoke in support of H 843, indicating he had drafted an identical bill this session and appreciates the opportunity for this legislation to come forward. Representative Trail reflected on the 3-year effort to raise the minimum wage for Idaho's farm workers to help reinforce their feeling of human dignity. The federal minimum wage has been stagnate for eight years; however, 17 states have moved ahead and increased the minimum wage. Minimum wage is not a living wage, but a step in the right direction. It will allow workers to make their own decisions in allocating the extra income to meet their needs and reduces the amount spent on government funded welfare and social programs. Representative Trail's testimony is found in Attachment 2.

**PRO**

**Mr. Grant Burgoyne**, a lawyer and resident of Boise representing himself, spoke in support of H 843. His business doesn't pay minimum wage, and he takes home less because he doesn't. This legislation deals with a moral issue and is the single most important issue to be addressed this session. It is easy for us who have prospered to forget

there are many falling behind. Rising inflation costs for housing, energy, food and higher education prevent working families from moving ahead. Working families are hit hard and it is wrong to leave them behind. People are working several jobs and have less time with their families to help with homework, scouts, recreation and parental supervision. Children go to school unprepared. Increasing the minimum wage will increase sales and push up wages for those who are making more than minimum wage.

A discussion followed about this being a moral issues and those not paying minimum wage being immoral. Mr. Burgoyne commented that it is "crystal clear" that if businesses are not paying a minimum wage, they are not compensating at a moral rate. It is an issue of fundamental right or wrong to steal the labor of employees who deserve to make a minimum wage, and we should be ensuring they don't become indigent. Chief Justice Charles Hughes said it is an issue of justice to pay fairly. Those who don't have bargaining power come out on the short end. Many businesses would like to pay more, but their competitors do not.

**PRO**

**Ms. Fawn Pettet**, legislative advocate for the Roman Catholic Diocese of Boise and Catholic Charities of Idaho, spoke in favor of H 843 on behalf of Bishop Michael Driscoll. Bishop Driscoll strongly urges support of this legislation. The current minimum wage has been in place for nearly a decade and no longer provides enough income to meet even basic needs. Idaho families are living in poverty --70% of children in one of our schools qualify for federal free or reduced lunches; Idaho is the 4<sup>th</sup> highest ranked state in measures of hunger; 1 in 5 people can't afford health insurance; and only 1 in 7 can cover all of their needs. Individuals cannot survive, families cannot thrive, and society cannot prosper without adequate reimbursement for labor. (Refer to Attachment 3 for Bishop Driscoll's full testimony.)

**PRO**

**Ms. Kathy Haley**, spoke in support of H 843 on behalf of the Idaho Women's Network. Copies of *The Status of Women in Idaho* which studied trends in women's employment, economic security and poverty was handed out. Statistics show that women (1) are more likely than men to be in low-wage work; (2) bear substantial responsibility for their families' economic well being; and (3) in 2002 earned less than 76 cents for every dollar earned by men. There is a myth that those working for minimum wage are high school kids living with their parents, but many are supporting families and an increase in their paychecks will make a tremendous difference. People having the ability to pay their own way and support their families are simply more productive members of society. (Refer to Attachment 4 for full testimony and *The Status of Women in Idaho*.)

**PRO**

**Ms. Karen McWilliams**, Board Member for Idaho Community Action Network (ICAN), spoke in support of H 843 urging the Committee to consider the broader picture. Ms. McWilliams provided a study entitled "*Northwest Job Gap Study: Living Wage Jobs in the Economy*" which can be found online at [www.nwfco.org/job\\_gap.htm](http://www.nwfco.org/job_gap.htm). This report calculates how much families need for a living wage. A comparison of the income needed for a single adult and the income needed for a family of four shows that a single adult needs a living wage of \$9.30 per hour and a

family of four needs a living wage of \$18.96 per hour. Ms. McWilliams urged that the Committee take action today to support working families.

**PRO**

**Mr. William Whitaker**, representing the Idaho Chapter of National Association of Social Workers (NASW), spoke in support H 843 (Attachment 5). NASW Idaho has 700 members throughout the state who work with Idahoans struggling to feed their families. NASW Idaho believes that workers who play by the rules and who work full time should be able to support their families – it is impossible to live on \$5.15 an hour. NASW supports the proposal to raise and index minimum wages. A living wage is needed that accounts for housing, child care, food, transportation and insurance. Idahoans are hard workers and work two jobs to make ends meet. H 843 does a better job of meeting the needs of Idaho's low income families and deserves our support. This is the first step.

In response to a Committee member's question about pay for marginal workers or handicapped workers, Mr. Whitaker said the kind of dedication and burning desire to work that people with disabilities have offsets any issues about paying them minimum wage – in no way is it justified to pay them at a sub-minimal wage.

**PRO**

**Mr. Dave Whaley**, President, Idaho State AFL/CIO, spoke in support of H 843. He discussed the issue of minimum wage vs. livable wage. The Governor has set the livable wage as \$12.50 and Idaho's minimum wage is a survival wage. For those in opposition to H 843 because they fear it will raise the cost of business, he pointed out that the cost of a hamburger at McDonalds in Idaho is the same as it is in Oregon where the minimum wage is higher. In response to an earlier question about handicapped workers, Mr. Whaley said his wife operates St. Vincent's Thrift Store and hires handicapped individuals. One legally blind employee goes out on the truck to pick up donations and is paid the same wage as any other employee – this is not an issue because they work to the best of their ability. Many minimum-wage employees work two and three jobs to keep bread and milk on table. He challenged the Committee to look in their communities and to help individuals by supporting this legislation.

In response to a question, Mr. Whaley said St. Vincent's employees make close to \$7.50 an hour. Most businesses pay above the minimum wage, and as a government, we need to set a better standard.

**CON**

**Mr. Mike Fitzgerald**, Vice President of the Lodging and Restaurant Association, spoke in opposition to H 843. In the hospitality industry he has employed about 10,000 Idahoans. Minimum wage is a starting wage. Even those employees making minimum wage must learn about sanitation and other work ethics. Many people applying for restaurant work have no clue how to interview. If taught to "shave and pull up their pants" they generally come around. It appears the restaurant sector loves paying people at minimum wage, but this is not so nor is it economically viable. Waiters and waitresses get a raise every time the price for a meal is raised. Mr. Fitzgerald clarified that a good waiter makes \$15 to \$20 an hour in Boise.

**CON**

**Mr. Kevin Settles**, Owner of Bardenday Restaurants and President of the Idaho Lodging and Restaurant Association, spoke in opposition to H 843.

He opposed raising the percentage for the tips tax credit. There is a great disparity in wages between tipped employees and kitchen workers. An average server makes \$18 and kitchen staff earns \$11-12. It creates problems giving those working in the front of the house more. Other states have raised minimum wages, but did not deal with the tax credit. The tax credit is the problem with this legislation.

**PRO**

**Ms. Anna Mathews**, ICAN, spoke in favor of H 843 providing information on public support and economist support for raising minimum wages (Attachment 6). People and the press found there is overwhelming public support for raising the minimum wage. Voters identified as conservatives, supported increasing the minimum wage by 4 to1 because it is recognized as a moral issue. A report from the Economic Policy Institute was signed by 552 economist who recognize that the minimum wage has been an important part of our nation's economy for 65 years. Modest increases in state minimum wages in the range of \$1 to \$2 can significantly improve the lives of low-income workers and their families, without the adverse effects that critics have claimed. A 1999 economic report of the President indicated that modest increases in the minimum wage have had very little or no effect on employment. This is no excuse for inaction.

A Committee member asked about an earlier comment regarding Nevada raising their minimum wage and asked what minimum wage actually is. Representative Pasley-Stuart said Nevada raised their minimum wage by a voter initiative and their minimum wage is \$5.15.

**PRO**

**Ms. Kathryn McNary**, Department of Commerce and Labor, spoke in support of H 843 on behalf of her friend, Rachael. Rachael's husband earns \$6 an hour and receives retirement money from a previous job, but they still live pay check to pay check and have no savings. Her husband was recently diagnosed with cancer. They do have health insurance but their medical costs are high – they pay \$460 per month and still have to make all their other payments. Ms. McNary reminded the Committee they have an opportunity to make a difference by increasing minimum wage as family value issue.

**PRO**

**Ms. Gail Bray**, small business employer, stated she pays her employees more than minimum wage. She voiced her concern that many small employers couldn't be here today because they were unaware of the hearing, unless they had time to read the paper this morning. It is important to make laws establishing a base pay so that no one falls through the cracks. There are many social and human aspects of trying to live on a minimum wage salary. Education is directly affected by a child's home experiences and time spent with parents. Those who make minimum wage can't afford insurance, proper child care, counseling/drug rehabilitation and health care so dealing with these issues become a cost to the state. All of these issues contribute to family demise. Housing costs alone cost more than half of an annual salary of \$10,712. Some Committee members feel these people are not worthy to be awarded \$1 per hour. H 843 doesn't mean bad workers will be paid more, it means they will get a fair wage without working two jobs. This is a political issue as well as social issue for employees and employers. Ms. Bray urged that H 843 be sent to the floor without recommendation.

**PRO**

**Mr. Don Reading**, Economist, Idaho Center on Budget and Tax Policy, spoke in support of H 843. Attachment 7 was provided showing the federal and state minimum wage changes since 1996. Oregon and Washington's minimum wages are over \$7 per hour and tied to the CPI. Immediately after Oregon raised minimum wages welfare recipients decreased by 5%. It is difficult to parse out what all is going on, welfare roles in general went down. The graphs on Page 2 split out those states who have raised minimum wages and indicate that retail job growth in these states has out-performed retail job growth in all other states. The bar chart on Page 3 shows that payroll per person in and annual payroll was higher in states where the minimum wage is higher than the federal minimum wage.

A Committee member asked if the cost of living was examined for those states who have raised their minimum wage, and Mr. Reading said no it was not. He agreed that in general the cost of living is higher.

**CON**

**Ms. Suzanne Schaefer**, representing the National Federation of Independent Business and the Idaho Petroleum Marketers, spoke in opposition to H 843, asking that it be held in Committee. She expressed her concern that the short time frame given before this hearing made it difficult to poll those she represents, but did find that 82% of the petroleum producers oppose this legislation. At risk of representing the "eagle empire", she said she has heard lots today about Boise and the labor market here. The Committee was reminded that the rural areas are a different client. The proposed CPI to be used is the urban CPI and doesn't reflect the economy of the smaller, rural Idaho communities.

Information from the Bureau of Labor indicates that minimum wage workers are young and half are under 25, teenagers account for 10%, and only 2% are over 25. Washington's minimum wage law was passed in 1998. A fairly thorough minimum wage study was conducted that indicates that law has had an adverse impact. Poverty has been rising and unemployment did increase in Washington. The small business community is the most disadvantaged by raising the minimum wage. If you don't want large box stores coming into your area, you need to hold this legislation.

**PRO**

**Representative Nicole LeFavour**, spoke in support of H 843 and asked the Committee to question the comments made about Washington's economy. There is a huge cost to government and the tax payers when minimum wages are not raised. Many of these workers are trying to make ends meet and are forced to use food stamps. An additional \$1 per hour means a \$2,000 difference and goes along way in paying for groceries, heating and other costs. Raising the minimum wage is importance to our economy. Small businesses depend upon people being able to eat out and the charts provided earlier indicate that the retail industry did well after raising the minimum wage. This is the right thing to do for the state, the taxpayer, and the economy.

**CON**

**Ms. Pam Eaton**, President, Idaho Retailers, said the Idaho Retailers are opposed to H 843. Studies can be argued all day, but real life examples, as given by Mr. Fitzgerald, are the norm. Very few workers are actually making a minimum wage. Unemployment is very low in Idaho and

businesses are struggling to find people to hire. The majority are paying higher, and the market is taking care of itself. McDonalds is a national chain and can spread the costs. On a recent visit to Olympia, Washington, Ms. Eaton said she went into an independent grocery store and things she commonly buys were \$1 or more higher. Because she knew the owner and asked why the outrageous prices, he said it was because of raising the minimum wage. Businesses are struggling to provide additional benefits and trying to provide insurance. The more you increase other cost, insurance is unfortunately one of the first things to go.

**Representative Ringo** closed the testimony, expressing her appreciation for the input given. We are talking about an amount that hasn't increased since 1997, which means a minimum wage worker receives \$884 per month before taxes. A person isn't going to make it on that and have discretionary money, which in turn results in erosion of buying power.

Regarding the restaurant industry's concern about tip tax credits, restaurants have the option to share tips among employees. Several different perspectives have been heard on this.

A Committee member question the assumption being made that these workers are staying at minimum wage and not progressing. People for a number of reasons don't always have opportunities to move on and this needs to be addressed.

**MOTION:**

**Representative Smith** (30) moved to send H 843 to the floor with a DO PASS recommendation. She doubts any of us could survive on this income. There is an erosion of buying power and tying the minimum wage to the CPI is fair to employees and employers. This legislation will provide a survivor wage, and if you are for fairness and human dignity you will vote yes.

Representative Black said he would be voting against the motion, because adding the extra indexing component will impact rural areas.

**SUBSTITUTE MOTION:**

**Representative Andrus** offered a substitute motion to HOLD **H 843** in Committee. He said he has had the same Hispanic man working for him for over 20 years, and he is paid \$7.00 per hour plus amenities. If the minimum wage is indexed to the CPI, he won't be able to keep him. The workers 14 year old son wants to work and is learning from his father, but Representative Andrus said he can't and won't pay him the same wage.

Representative Stevenson debated in support of the substitute motion. He opposes the automatic CPI. According to the Department of Labor report there are 34 who have the federal minimum wage standard. Californians are moving to Idaho because of the cost of doing business is less, and they are driving up our property prices.

Representative Smylie stated that \$5.15 an hour is not a living wage and neither is \$6.15. The whole point of working is to improve yourself. He said he was glad to pay his workers \$10 per hour because they were outstanding employees. You haven't increased goods and services by raising the minimum wage if you increase prices – this doesn't help those at bottom of the scale because their buying power is the same.

**AMENDED  
SUBSTITUTE  
MOTION**

**Representative Pasley-Stuart** offered an amended substitute motion to send **H 843** to the floor with NO recommendation.

**VOTE ON THE  
AMENDED  
SUBSTITUTE  
MOTION:**

A roll call vote was requested. The amended substitute motion to send **H 843** to the floor with NO recommendation failed on a vote of 5 "AYES" and 12 "NAYS". Representatives Miller, Anderson, Shepherd (2), Smith (30), and Pasley-Stuart voted "AYE". Representatives Deal, Smylie, Stevenson, Ellsworth, Black, Edmunson, Ring, Snodgrass, Loertscher, Andrus, Hart, and Bilbao voted "NAY". Representative Garrett was excused.

**VOTE ON THE  
SUBSTITUTE  
MOTION:**

A roll call vote was taken on the substitute motion to hold **H 843** in Committee. The motion passed by a 12 to 5 vote. Representatives Deal, Smylie, Stevenson, Ellsworth, Black, Edmunson, Ring, Snodgrass, Loertscher, Andrus, Hart, and Bilbao voted "AYE". Representatives Miller, Anderson, Shepherd (2), Smith (30), and Pasley-Stuart voted "NAY". Representative Garrett was excused. H 843 will be HELD.

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 10:30 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary



MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** March 27, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Anderson and Snodgrass

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 8:35 A.M. with a quorum being present. The first order of business was to consider the minutes of Thursday, March 23, 2006.

**MOTION:** **Representative Pasley-Stuart** moved to accept the minutes of March 23, 2006 as printed. Representative Smith (30) pointed out on Page 5 "PRO" and "CON" need to be added in the margin for consistency. The correction was so noted, and the motion carried by voice vote.

**S 1243a** **Representative Mike Moyle** introduced **S 1243a**, amended legislation that requires condemnors to clearly set forth in the complaint a description of the property and property rights to be acquired. This will remove any ambiguity about which rights are being acquired as part of the condemnation, and shall give the condemnor the right to make that decision, via an order or other resolution entered by the condemnor.

When this legislation was presented in the Senate, a concern was voiced and the bill was amended on Page 1, Line 31 to clarify that easements would be *"know or reasonably identifiable to the condemning authority"*.

**PRO** **Ms. Heather Cunningham**, Attorney, Davison, Copple, Copple & Cox, LLP spoke in support of S 1243a. Ms. Cunningham explained she has 10 years of experience working with individuals facing condemnation. The three bills today address many of the concerns her firm has seen in condemnation cases. The existing statute provides that the condemnor can acquire a temporary or permanent easement and also take other property rights and rights of access. The problem is that there is an inconsistency in the procedures used. An example of the inconsistencies was provided where the ACHD Commissioners prepared an Order of Condemnation stating the Board met and found it necessary to take property rights and the rights of access were extinguished. This order when entered is prima facie evidence. The order is signed and it is referred to a lawyer to draft a Complaint of Condemnation. In this document, Article VII states that access is to be limited to what is shown here. At times the order can be issued and the complaint is not consistent with the order. The order needs to be attached to the

complaint so everyone is on the same page and the owner doesn't discover that the taking has changed. The condemnor needs to make sure the owner is clear on what is being taken and is paid justly. Other states' procedures use the order of condemnation to define the taking. The amendment clarifies that the condemnor has the obligation to take into account known or reasonably identifiable easements.

**PRO**

**Mr. Keith Allred**, representing The Common Interest, stated that eminent domain was one of four issues that the members chose to investigate this session. His group worked with Representatives Brandt and Moyle, the ACHD, the Association of Cities and others to study this issue. Ninety-six percent of The Common Interest membership, who took an hour or more to study this legislation, supports S 1243. Supporters feel that requiring "due diligence" would relieve property owners of an unreasonable hardship caused when the government alters its proposed taking. The amendment will improve the legislation and provides a "little wiggle" room. This is very well crafted legislation and a sensible solution.

**MOTION:**

**Representative Loertscher** moved to send **S 1243a** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Moyle** will sponsor S 1243a on the floor.

**S 1247**

**Representative Mike Moyle** introduced **S 1247**, legislation clarifying that the "Quick Take" procedure, which allows condemning authorities to take possession of private property prior to trial, is available to all condemning authorities. The current statute contains a list of condemnors and projects which is not all-inclusive; therefore, there are some condemnors which cannot take possession of property being condemned by eminent domain until after a commissioner's hearing and a trial on the issue of valuation. The result is a delay in public projects and additional costs to private property owners.

The proposed legislation is good for both sides. This legislation would allow immediate possession of the property upon deposit with the court of "just compensation". The property owner and the condemnor can then resolve just compensation without the public project being delayed. Anyone with eminent domain authority can use quick take.

**PRO**

**Ms. Heather Cunningham**, Attorney, Davison, Copple, Copple & Cox, LLP, explained that Idaho has had the "Quick Take" procedure in place, but educational entities were left off the list. The current statute creates double fees for commissioners and the court. This legislation makes the process fair to both sides and removes the laundry list.

**PRO**

**Mr. Keith Allred**, representing The Common Interest, spoke in support of **S 1247**. He said this legislation is fair and equitable, and 76% of their members support this legislation.

A Committee member asked if there is a list of eminent domain authorities outlined in the Code somewhere? The Constitution and Idaho Code list entities such as utilities, city, counties, transportation departments, schools, and education entities.

**MOTION:** **Representative Pasley-Stuart** moved to send **S 1247** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Moyle** will sponsor **S 1247** on the floor.

**S 1429** **Representative Mike Moyle** introduced **S 1249**, legislation that addressed the need to ensure there is a balance between condemnors and property owners, and reinforces the importance of government acting in good faith when acquiring property. Existing law requires condemnors to attempt to purchase property via good faith negotiations prior to filing suit for condemnation. The condemnor's last offer before litigation should therefore be a good faith offer. Currently just compensation can be reduced once a suit is filed, resulting in condemnors asserting that just compensation owed is lower once litigation is filed than they asserted pre-litigation.

This legislation requires the condemnor to stand by its last pre-litigation offer and set that amount as the floor for just compensation. They cannot assert less than that amount once suit is filed. This would ensure that good faith and the spirit of the constitution are complied with. This legislation is good for those being condemned.

A Committee member asked if this would encourage the offering agency to adjust their offer. This was a concern in the Senate and resulted in S 1245 being replaced by S 1429 and the term "offer" being changed to "appraisal". This change locks into the appraisal price

**PRO** **Ms. Heather Cunningham**, Attorney, Davison, Copple, Copple & Cox, LLP, spoke in support of **S 1429**. This bill causes no increased costs to conemnors. About 95-98% of property owners are paid based on the initial appraisal. This legislation merely requires that no citizen exercising his constitutional right would have a judge or jury assess just compensation for less than other citizens on the same project simply because he exercised his right.

Ms. Cunningham gave two examples showing abuses that have happened in Idaho (Attachment 1). An appraisal for \$62,000 was reduced to \$21,000 to \$31,000, and only after significant court costs was the property owner compensated for \$101,000. In a pending case the appraised amount was reduced from \$49,000 to \$4,000.

As a public policy, this legislation will help prevent the gamesmanship and abuses that are currently becoming more and more common in our condemnation system.

**PRO** **Mr. Keith Allred**, representing The Common Interest, spoke in support of **S 1429**. The Common Interest members reviewed the original legislation, S 1245, and 89% voted to support this legislation. S 1429 ensures that an unintended incentive for the government to make lower pre-litigation offers doesn't exist. The members found this to be a reasonable rationale and, since the interested parties found this change acceptable, they support S 1429. We have a very direct, long-standing constitutional obligation to make a good faith offer. Shifting to an appraisal is an improvement to the legislation and sends an important message to those entities doing the condemning.

A Committee member questioned the examples where the appraisal amounts were lowered and asked whether the lower appraisals were justified. Ms. Cunningham said appraisers must use "due diligence" and this legislation protects the property owner.

**MOTION:** **Representative Smylie** moved to send **S 1429** to the floor with a DO PASS recommendation. The motion carried by voice vote.

Before the meeting was adjourned, Chairman Deal informed the Committee that Representative Lake has proposed another amendment to S 1437, legislation that this Committee voted to amend by reducing the pay raise for elected officials from 5% to 4% per annum.

Representative Bilbao explained Representative Lake's proposed amendment. Commencing on the first Monday, January 2007, the income for each elected officer would be increased by 4% per annum, and commencing on the first Monday in January 2008 and on the first Monday in each subsequent year, the salary for each officer would increase by a percentage equal to the salary percentage increase, if any, effective for classified state employees for the respective years.

It was explained that both amendments will be considered on General Orders tomorrow, and amendments are put in the order they are received by the Chief Clerk. The Committee amendment will be considered first and if it passes, Representative Lake's amendment will not be considered.

A discussion followed and a Committee member said she has no concern with the 4% pay raise the first year, but feels the following pay raises should be the same as those for the other state employees. Several other members voiced their support for Representative Lake's amendment because they feel there is no shortage of candidates, the elected officials raise should be in line with the raises of state employees, and elected officials are underpaid, but so are the state employees.

Other members pointed out that pay for Idaho's elected officials is below that of other states. When compared with private positions, the 4% is an effort to bring our elected officials up to par. Since they did not receive a pay raise for the last term, the raise would actually be 2%. A comment was made that we could reduce the pay to half and still pick up candidates, but we might want to be careful about the direction we take.

Representative Smith (30) thanked the Chairman and Representative Bilbao for letting the Committee know about the second amendment before hearing about it on the floor.

**ADJOURN:** There being no further business, the meeting was adjourned at 9:23 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 28, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please refer to the Committee sign-in sheet and to those presenters highlighted below.

Chairman Deal called the meeting to order at 8:34 A.M. with a quorum being present. There were no minutes to review.

#### **S 1404**

**Representative Darrell Bolz** gave a brief introduction to S 1404. This piece of legislation comes from the Middleton School District, but the issues encompass many school districts that are expanding rapidly and contain many mid-range homes. It may not be known what is happening in these districts, but schools can only occur debt for a bond based on the net tax value rather than the full tax value – the homeowners exemptions must be deducted. In 2005 the net taxable amount for Middleton was approximately \$499 and the full market value was approximately \$641 million. Because the school district must bond on the net value, that means that Middleton District would not able to bond for an additional \$142 million. The figures for Jefferson County are quite similar.

Looking at what it costs to build a school in actual dollars, an elementary school for 600 students costs about \$9 million. Under the current system, school construction is delayed up to four years or more which raises the cost of a school considerably because of inflationary costs.

Another approach to this problem would be to raise the cap that is currently set at 5% of the current tax base. This would apply to all of the school districts throughout the state, not just those who are experiencing a large population growth. Middleton, Caldwell, and other schools are facing setting up portables which cost about \$90,000 for the portable and \$20,000 for the setup.

This legislation provides the kind of fix that can help address the school facilities issue.

**Dr. Richard Bauscher**, Superintendent of the Middleton School District, spoke in support of **S 1404**. The Districts most restrained by the existing debt limit are those experiencing rapid growth in suburban areas that have primarily property value growth in homes, rather than business, commercial and industrial property. Middleton has experienced this rapid

growth and they have five schools at capacity. Attachment 1 outlines what the projected net market value and the full market value will be from 2006-2011 and charts out the (1) enrollment versus capacity projections with and without the passage of S 1404 and (2) without S 1404 and with an increase in the homeowner's exemption to \$75,000. Without the passage of S 1404, set backs will occur, inflation costs will increase about 12-15% per year, and Middleton will have quite a city of portables for their secondary schools.

Attachment 2 contains letters of support from six superintendents throughout the state. Seventy-nine superintendents are in support of this legislation. Some Districts may not have a need to access this provision for several years, but S 1404 will allow the districts to take bond issues to their patrons at least one year earlier by allowing 10-24% net market values to be calculated based on full market value.

This legislation does not create a fiscal impact for the state and leaves the bond rules in place – it still requires a 2/3 majority vote to pass a bond and all of the other provisions are the same except for substituting the full value rather than the net value.

- PRO** **Ms. Christine Donnell**, Assistant Superintendent from Middleton, spoke in support of S 1404. Ms. Donnell was at Meridian School District for 34 years and they experienced the same issue of not being able to bond until they had the capacity to do so. This legislation will allow schools to bond sooner and to save taxpayers more money. This legislation allows districts to put children in buildings rather than portables.
- PRO** **Mr. Steve Cluff**, Chairman of the Middleton School Board, said he is in support of the facts and information given by Mr. Bauscher. Mr. Cluff graduated from Middleton High School and upon his return to that community has been actively involved in the school district. His concerns center around the growth, how soon they could bond for new schools, and the 12-15% inflation costs per year. Middleton School District covers about 100 square miles and homes are being built at a fantastic rate. They do have a crisis and need to build a new high school.
- PRO** **Mr. Nick Miller**, Attorney, Hawley, Troxell, Ennis and Troxell, spoke in support of S 1404. In looking at the history of bonds, the debt limits on cities and counties are very common, but they are dynamic and statutory. In 1973 and 1977 debt limits were raised because of inflationary pressures on construction. Rather than increasing the cap, giving a “blunt instrument amount” to all, S 1404 focuses on the debt capacity and targets it to those districts who need it. These areas have lots of residential homes rather than commercial facilities.
- PRO** **Mr. Phil Homer**, representing the Idaho Association of School Administrators, spoke in support of S 1404. The administrators appreciate support for this legislation and feel it is another tool to solve the facilities issue.
- PRO** **Dr. Cliff Green**, Idaho School Boards Association, spoke in support of S 1404 stating it is simply a tool you can provide school districts that are growing. It is an important tool that still requires the 2/3 super majority

vote. This legislation was reviewed by ISBA's Governmental Affairs Committee and they are in full support.

**PRO**

**Mr. John Eikum**, Idaho Rural Schools Association, stood in support of S 1404. He talked about the Lapwai School District where a bond passed to build a new high school, and now they are \$2 million dollars short. Had this legislation been in place, they may have had the bonding capacity to build the school.

**MOTION:**

**Representative Smylie** moved to send **S 1404** to the floor with a DO PASS recommendation.

**SUBSTITUTE MOTION:**

Representative Loertscher offered a substitute motion to have the Speaker re-refer S 1404 to the Revenue and Taxation Committee. There are a lot of members on this Committee who are not involved with the intricacies of how bonding/taxes work, and this legislation needs to be studied in the Revenue and Taxation Committee. This legislation has a far reaching affect because what we are doing is increasing the homeowners exemption. Wanting to be able to bond on the full taxable value overinflates the amount of money to be borrowed. This proposal needs to be studied so we will know the full ramifications.

Representatives Ring, Snodgrass, Stevenson, Bilbao, Andrus, Smylie and Black all spoke in support of the original motion to send S 1404 to the floor with a DO PASS recommendation. Reasons given for their support were that (1) this is outstanding legislation; (2) there is no fiscal impact to the general fund; (3) this legislation was heard in the Senate and would have been referred to a Tax Committee there if necessary; (4) those presenting this legislation have studied the issue and have a good knowledge of what is needed; (5) this is the proper Committee to consider bonding issues; (6) students shouldn't have to go through a farm of portable units to get to their classes; (7) to delay this will just make the costs go higher; (8) the passage of a bond still requires a 2/3 super majority vote; (9) this legislation provides for local control; (10) the final decision will be placed with the taxpayers; and (11) there is not a willingness to concede that another committee is wiser than we are.

Representative Loertscher said he was not trying to demean any one's intellect. Representatives Ellsworth, Loertscher and Hart spoke in favor of the substitute motion and in opposition to the original motion. Reasons given were that (1) there is some debate on this issue because it does involve property being exempt from taxation; (2) it is not understood why we are looking at bonding and not the tax part – it needs another hearing in Revenue and Taxation; (3) this is a taxing issue with a great big number and Revenue and Taxation does deal with these issues; (4) schools will be incurring a huge amount of debt on a small tax base; (5) levies will go up; (6) the consequences of the homeowners exemption need to be understood; (7) bonding ability will increase and it affects those paying the taxes; and (8) this is a tax policy issue and the consequences will be understood better by the Revenue and Taxation Committee.

**VOTE ON THE**

A voice vote was called for on the substitute motion to have the Speaker

**SUBSTITUTE MOTION:** re-refer S 1404 to the Revenue and Taxation Committee. The substitute motion was defeated.

**VOTE ON THE ORIGINAL MOTION:** A vote was taken on the original motion to send S 1404 to the floor with a DO PASS recommendation. The motion passed on a voice vote. Representatives Loertscher, Hart and Ellsworth asked to be recorded as voting "NO". **Representatives Bolz and Bilbao** will sponsor S 1404.

**RS 16297C1** **Representative Pete Nielsen**, introduced **RS 16297C1**, legislation that would create the Perpetual Bootstrap Educational Fund to assist need-based students. Mr. Dan John, Idaho Tax Commission, worked with Representative Nielsen on this legislation.

The bootstrap fund would be funded by a partnership between the State of Idaho and a community of private citizens and businesses. When filing a tax return, you would be able to designate money towards this fund and receive a double tax reward. Students would receive loans based on their needs, following the federal guidelines. The loans would need to be paid back, a 3-year break in school would be allowed, the loan payments wouldn't start until the third year after finishing school, and the loan amount would be \$50 per month and is interest free. This would help students who are need based to return something back to society.

This legislation, if printed, would be referred to the Revenue and Taxation Committee. Changes need to be made on Page 2, Line 24 by deleting the word "scholarship" and inserting "loan". On Line 28 the word "scholarship" would be deleted and on Line 37 after the word "subsection" the words "All bootstrap loans will be interest free" should be added.

The Committee asked the following questions and voiced their concerns:

- Can you give to both the scholarship fund and also to the Bootstrap Loan Fund on your tax return? *It was clarified that you cannot give to both and receive the double tax credit. You have to subtract the amount given for the scholarship.*
- Won't this dry up the scholarship funds, if corporation can deduct twice the amount for the Bootstrap fund? *It is felt the scholarship fund may shrink a little, but the help is need for need-based students. A concern was voiced about corporations getting to deduct twice what they donate and the loan money being replaced by the students – the fund could "mushroom". The vision is that some day contributions will no longer be needed and the language can be changed.*
- In having children getting a higher education, it was discovered that there is no shortage of no- or low-interest loans, but scholarship money is not there. Concerns were voiced about students being encouraged to take out additional loans and teachers not being paid enough to pay back loans. *The bootstrap loan works in conjunction with all other scholarship programs. If we need school teachers in particular subject areas, there is nothing to preclude loan forgiveness.*
- Who pays back the loans and who collects the money? *The language On Page 1 and Page 2 says that the State Board of Education determines the needs and administers the program.*
- The minimum payment would be \$50 for the first five years and the loan would be paid back in ten years. Paying back the \$30,000 in the last five years would create a hardship. If students do not finish school they would



have a tremendous obligation. *It is assumed that assets will increase and payments will go up once an associates degree is received.*

- Is there anything specifying the about amount to be borrowed yearly? *This loan program will work in conjunction with other loans to meet the cost of food, board, tuition, and books – it is restricted, not capped and is a needs-based fund for Idaho schools only.*
- There is an emergency clause and no place where it would prohibit someone from claiming a deduction back to January 2006. *It is meant for tax year 2006, but it may not need the emergency clause.*
- The fiscal note is vague, and you are proposing to set up a whole new program for the Board of Education to administer. *The fiscal not is brief at this time, and the tax commission was not able to give the figures about how much the general fund will loose. The universities have been contacted to move forward with a cost to the state.*

**MOTION:** **Representative Snodgrass** moved to return **RS 16297C1** to the sponsor. He congratulated Representative Nielsen for coming up with the idea, but said he has concerns about federal funds already being available, the double deduction, and the administration of the program. Representative Smylie debated in favor of the motion saying he has a concern about the amount borrowed and how the money will be repaid. We we are creating a social problem, and this legislation places the state in the banking business.

The motion carried by voice vote and RS 16297C1 will be returned to the sponsor. Representatives Andrus, Loertscher and Hart asked to be recorded as voting “NO”.

**ADJOURN:** Chairman Deal informed the Committee that they will meet at 9:00 A.M. tomorrow and at 8:30 A.M. on Thursday. There being no further business to come before the Committee, the meeting was adjourned at 9:45 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 29, 2006

**TIME:** 9:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representative Edmunson

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The first order of business was to approve the minutes of Monday, March 27 and Tuesday, March 28, 2006.

**MOTION:** **Representative Shepherd** (2) moved to accept the minutes of March 27, 2006 as printed. The motion carried by voice vote.

**MOTION:** **Representative Ring** moved to accept the minutes of March 28, 2006 as printed. The motion carried by voice vote.

**H 853** **Representative Wendy Jaquet** introduced **H 853**, legislation that replaces H 777. This legislation corrects an existing situation and puts into compliance licensed movie theaters that were selling beer and wine as of January 1, 2006. Four theaters, the Ski Time Cinema, the Magic Lantern, the Sun Valley Opera House and the Flicks, would all be "grand fathered" in and allowed to continue doing business. Previous testimony indicated that the sale of beer and wine accounts for about 14% of one theater's proceeds.

Representative Andrus commented that he had received a letter from a prominent theater that said it would seek to be included under this provision. The question was asked whether others will say they are being discriminated against. Representative Jaquet said she talked with this theater yesterday. They do not have a liquor license, they are very large, and she feels they are willing to support bringing the four theaters into compliance.

**Col. Dan Charboneau**, Idaho State Police, addressed the concern brought forth by Representative Andrus, indicating that in this day and age there is always the possibility for a law suit. This legislation takes care of an anomaly and puts these four businesses in compliance.

**MOTION:** **Representative Miller** moved to send **H 853** to the floor with a DO PASS recommendation.

Representative Pasley-Stuart spoke in support of the motion. The sponsor has addressed the concerns about this issue, and good citizens running these theaters.

The motion carried by voice vote. Representatives Stevenson, Loertscher, Ellsworth and Andrus asked to be recorded as voting no. **Representative Jaquet** will sponsor H 853 on the floor.

**ADJOURN:**

Chairman Deal informed the Committee that they will be meeting at 8:30 A.M. tomorrow to talk about Workmen's Compensation. There being no further business to come before the Committee, the meeting was adjourned at 9:10 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 30, 2006

**TIME:** 8:00 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** None

**GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.

Chairman Deal called the meeting to order at 8:04 with a quorum being present. The first order of business was to review the minutes of Wednesday, March 29, 2006.

**MOTION:** **Representative Ring** moved to accept the minutes of March 29, 2006 as printed. The motion carried by voice vote.

**H 850** **Representative John Rusche** introduced **H 850**. This bill amends Section 72-102, Idaho Code, to revise the definition of "injury" and amends Section 72-451, Idaho Code, to revise the provisions applicable to compensation for psychological accidents and injuries related to worker's compensation claims. These changes would allow compensation for a work-related severe psychological injury.

Current rules require that compensation is available only if accompanied by a physical injury and excludes coverage for psychologic disorders induced by an exceptional workplace event. H 850 retains the requirements that the psychological injury be exceptional and not related to disciplinary action or firing and requires that a work-related accident be the cause of the psychological injury. This legislation recognizes that "stuff happens" and helps ensure that the enterprise is not interrupted. Tests were not available in 1994 that documented the clear changes to the brain from an acute stressful event.

Attachment 1 shows the states that have laws pertaining to psychological injury and the "hurdles" required for this type of injury. Nine states require that a physical injury is required for compensation and nine states do not. Some of the situations covered by this provision might be an injury occurring during a terrorist attack, a bank teller held at gunpoint, or a peace officer who witnesses a fellow officer being killed.

In response to questions, Representative Rusche provided the following:

- NCII was not contacted to determine what the increase in workmen's compensation premiums might be. A representative from the Industrial Commission was contacted.

- It depends on the commercial policy whether these conditions are covered. One of the ways that unknown risk is handled is through exclusion – some companies exclude and some cover fully.
- Research to determine the estimated costs to employers was not completed. It is clear there would be an additional cost. H 850 proposes legislation that is similar to existing law in 10 other states.

**CON**

**Mr. Shirl Boyce**, Vice President, Economic Development, testified in opposition to H 850 on behalf of the Boise Metro Chamber of Commerce and the Boise Valley Economic Partnership. He provided three reasons for opposing this legislation.

- Idaho is known as one of the best places to do business because of its worker's compensation policies and its fair treatment of worker's compensation issues;
- Idaho's worker's compensation law is one reason why many firms from California are considering locating in Idaho;
- The Boise Metro Chamber of Commerce supports improving Idaho's worker's compensation program, but opposes the concept of filing claims based on job-related "stress".

When asked if California has a similar law, Mr. Boyce said "yes, and many in California believe worker's compensation there is simply out of control".

**CON**

**Mr. John "Jack" Barrett**, Attorney in Boise, spoke in opposition to H 850. He indicated that he was not representing a client even though a substantial portion of his business deals with worker's compensation claims. It is important to recognize that there has to be a balance between the employer and employees to share the risk and balance the cost of programs with benefits available. There has been lots of research done on mental injury claims, and most attorneys are familiar with the disastrous situation in California. There are eight states that recognize all mental claims. NCII has prepared a preliminary report and it is estimated that payment of worker's compensation claims in Idaho would increase by \$5 million. This figure does not include lawyer fees – this legislation would be a lawyer's paradise.

In reviewing H 850, it appears there are internal conflicts in the legislation. Accident, as defined in one section of code, is an event "causing an injury" and in another section accident is defined as a "sudden and extraordinary event". If ambiguity exists in the statutes, then what is an accident. This legislation is not good for the state and worker's compensation issues require intense study and review with all parties involved. H 850 would cause an imbalance to the system.

**CON**

**Mr. Dan Larkin**, Food Producers of Idaho, spoke in opposition to H 850. The Food Producers of Idaho are opposed to this legislation simply because it will add costs for the producers and for all Idaho citizens. This legislation will have a negative impact on their industry (Attachment 2).

**CON**

**Mr. Al Gardner**, Attorney representing the Worker's Compensation Industry, spoke in opposition to H 850. In 1994, the stimulus for Idaho's worker's compensation statutes was based on California's problems in this area. It is interesting to see that California and Oregon

did nothing to curb those claims. Mental claims have a two-prong peril – the history of the patient and the subjectivity of the psychologist and psychiatrist. All concerns of cost aside, proving these cases is extremely difficult. There is a problem with this bill doing what it purports to do, and the ambiguous language opens the door. Knowing how courts are and how attorneys like to argue this is not good legislation.

**CON** **Mr. Woody Richards**, Lobbyist, said he would wave his comments in the interest of time.

**CON** **Ms. Teresa Molitor**, Vice President of Human Resources, IACI, distributed a letter registering the opposition of Idaho's employer community (Attachment 3).

**CON** **Ms. Kelci Carl**, Idaho Association of Counties, spoke in opposition to H 850, indicating that the counties are concern about increased costs given the 3% cap.

Representative Rusche closed saying it is clear this is not a universally popular concept; however, there are a number of stress claims that have a clear set of diagnostic criteria, are work related and are excluded.

**CON** **Mr. Dennis Tanikuni**, Idaho Farm Bureau Federation, submitted written testimony opposing H 850 (Attachment 4).

**Mr. C.J. Buck**, Buck Knives, Inc., submitted written testimony on H 850 (Attachment 5).

**MOTION:** **Representative Garrett** moved to HOLD **H 850** in Committee. In support of the motion, she referred to her experience on the Commerce and Human Resources Committee. Committee members are given training periodically on worker's compensation – it is a complex subject and fraught with difficulties. Six weeks was spent this session looking at a rule to hold down worker's compensation premiums while balancing the need of workers. The balance that contributes to Idaho's fairness is a good balance.

A roll call vote was requested on the motion to HOLD H 850. The motion carried by a unanimous (18 to 0) vote. H 850 will be HELD.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 8:30 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

**DATE:** March 31, 2006

**TIME:** 8:30 A.M.

**PLACE:** Room 412

**MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart

**ABSENT/  
EXCUSED:** Representatives Smylie and Garrett

Chairman Deal called the meeting to order at 8:35 A.M. with a quorum being present. The first order of business was to approve the minutes of Thursday, March 30, 2006.

Representative Bilbao moved to accept the minutes of March 30, 2006 as written. The motion carried by voice vote.

Chairman Deal informed the Committee that the amendment made to S 1437 is unconstitutional under Article V of the Constitution. **Mr. Brian Kane**, Attorney General's Office, was asked to speak to this.

Mr. Kane said the purpose of Article V, Section 27 is to insulate the year-by-year discretionary salary increase for elected officials from being changed each year by the Legislature. Another issue is that the CEC recommendation is made by the Governor. The elected officials salaries can be tied to an index, but they need to be placed beyond Legislative "tinkering" so they are not manipulated year-by-year.

The question was asked whether the elected officials salaries could be tied to the Legislative salaries. Mr. Kane said this is a good question and he would have to look at the makeup of powers in doing so.

Representative Ellsworth clarified that the Legislature has the authority to reject the CEC Committee's recommendations.

#### **RS 13618**

**Chairman Deal** introduced **RS 13618**, legislation that would set the salary increase for elected officials at 4% for 2007 in an effort to help "catch up" those salaries which have not been increased in the last four years. A 3% salary increase for the elected officials would be given each January for the next three years 2008 -2010. The 3% is close to the CPI and to what is expected for future CEC salary increases. This is the next best idea.

Representative Andrus asked for clarification on the 4% increase for the first year. It was clarified that no raise has been given to the elected officials in the past four years, while the average salary increase for State employees the last four years has been about 3% plus merit pay and bonuses. It was stated that state employees received a 1% in January as a catch up and another 3% this year. Representative Pasley-Stuart

clarified that \$5 million was appropriated for targeted positions such as nurses, but employees who were not in these positions did not receive the 1% increase. The average increase for state employees over the last four years is 2.9%.

Representative Snodgrass said he is not in favor of giving these officials the 3% in subsequent years because they have not had a raise for four years. Giving them 4% for all four years amounts to 16% or 2% per year for the past eight years. This is still 9.2% below the state employee raises for the same period.

Representative Black said he agrees with what Representative Snodgrass said, but we need to look at the reality of this. The amendment for a 4% increase for the next four years was voted down on the floor.

Representative Ring commented that in previous discussions it was pointed out there is no lack of candidates, but if we continue to deteriorate their buying power there may be.

Representative Ellsworth said in looking at the last four years in her district there has been a real down turn in constituent's buying power. This is a good compensation.

**MOTION:** **Representative Stevenson** moved to introduce **RS 16318** for printing and to refer the bill to the Second Reading Calendar. Chairman Deal stated that it is his personal view we are where we were four years ago when no increase was given. Representative Andrus said he has to go home and justify this and the 3% looks better. Representative Pasley-Stuart said she hopes the Committee will look at what we have done this session. By being willing to spend additional money on the Capitol remodeling and not giving an increase in minimum wage we are not going home with a value system.

**VOTE:** A vote was called for on the motion to introduce RS 16318 for printing and to refer the bill to the Second Reading Calendar. The motion carried by voice vote. Representatives Smith (30) and Pasley-Stuart asked to be recorded as voting "NO". Representatives Denney and Moyle will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the Committee the meeting was adjourned at 8:58 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary



## MINUTES

### HOUSE STATE AFFAIRS COMMITTEE

- DATE:** April 5, 2006
- TIME:** 9:30 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Garrett, Loertscher, Anderson, Andrus, Hart, Bilbao, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/  
EXCUSED:** Representative Shepherd (2)
- GUESTS:** Please refer to the Committee sign-in sheet and to the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:31 A.M. with a quorum being present. The first order of business was to review the minutes of Friday, March 31, 2006.
- MOTION:** **Representative Pasley-Stuart** moved to accept the minutes of March 31, 2006 as printed. The motion carried by voice vote.
- RS 16341** **Representative Sharon Block** introduced **RS 16341**, legislation that establishes a Medicaid respite care program for vulnerable caregivers. RS 16341 is a new, improved version of S 1390, legislation that failed in the House on a tied vote. RS 16341 is the only piece of the Medicaid control package legislation that would help curb long-term care expenses. In Idaho it costs about \$4,000 per month for nursing home care. In 2020 about one-fourth of Idaho's population will be 65 or older.
- RS 16341 addresses the following concerns voiced by those opposing S 1390: (1) The patient must meet financial eligibility criteria for Medicaid and be at risk of nursing home levels of care; (2) the caregiver will be assessed; (3) a cap is set to make this proposal budget neutral; (4) the program will be available for up to 500 persons, based on available funding; (5) an annual report is required to ensure the program is helping to divert patients from nursing homes; and (6) the program will sunset on July 1, 2009.
- Representative Block requested this RS be printed and referred to the Second Reading Calendar.
- MOTION:** **Representative Loertscher** moved to introduce RS 16341 for printing and to refer the bill to the Second Reading Calendar. He commended Representative Block for her efforts, because this RS "irons out" the concerns raised about a cap and a sunset clause during the debate.
- Representative Andrus requested clarification of the language starting on Line 12, "Idaho medicaid should support family..." and asked where the money for support will come from. Representative Block explained that

the Medicaid appropriations bill provides funds for the Home and Community Based Waiver Program. **Mr. David Rogers**, Health and Welfare, further clarified that the overall appropriation bill includes intent language for respite care and specifies the benefit amount allowed for respite care is \$200 per month.

**VOTE:** A vote was called for on the motion to introduce RS 16341 for printing and to refer the bill to the Second Reading Calendar. The motion carried by voice vote. **Representative Block** will sponsor the bill on the floor.

**S 1462** **Mr. Tim Mason**, Division of Public Works, Department of Administration, spoke in support of **S 1462**, legislation seeking a means by which to deal with implementing HCR 47, capitol restoration. The Idaho Legislature recognizes the importance of preserving one of Idaho's most renowned landmarks. The Legislature also recognizes that there are alternative project delivery methods for public works construction. S 1462 asks that the Department of Administration, Division of Public Works, be allowed to use construction management at-risk services on capitol building projects. This legislation only applies to the capitol restoration project and does have a sunset.

The decision has not been made that construction management at-risk services will be used for capitol restoration, but in talking with the consultants on this project, it was suggested that having the ability to use construction management at-risk is a valuable tool.

Currently, a State construction manager agent contracts with a private contractor to manage/supervisor State projects. The State then contracts with the various building contractors. A construction at-risk manger can be the general contractor for a project, guarantees the cost of the project, manages the other contractors, and self-performs some of the work.

A discussion followed and Mr. Mason responded to questions.

(1) Will using at-risk services increase the cost of construction? If the at-risk manager comes in at the design phase they would have a greater comfort with the over all task and would guarantee the maximum cost for the project. Using an at-risk manager should not result in a significant extra cost.

(2) Is the State protected from price increases on goods when using at-risk services? The at-risk construction manager would look at the costs when the design is developed and it would be incumbent that the potential cost increases be factored into the bid.

(3) Would either process use the same pool of bids? When contracting out work, bids would be obtained in the same manner to roll into the price for construction.

(4) What are the advantages to using at-risk services? In either scenario, qualifications of the contractor would be considered. The at-risk construction manager would have a vested interest in the project and would have the authority, power and ability to control the job. This would be an advantage to the State.

(5) Would this legislation the number of Idaho firms hired? The construction manager is required to go through a pre-qualification process. For specialty type restoration, there may not be qualified Idaho contractors, but for the actual work on the Capitol, the intent is to largely

look to Idaho contractors. It is possible there could be multiple contracts for such jobs as drywall.

(6) Will the State give up its control when using an at-risk construction manager? The contract is ours and there is no loss of control.

Chairman Deal commented on how fortunate Idaho is to have Mr. Mason as the Administrator for the Division of Public Works. Mr. Mason comes for Power Engineering, and we are privileged to have his expertise.

**MOTION:** **Representative Black** moved to send **S 1462** to the floor with a DO PASS recommendation. The motion carried by voice vote.  
**Representative Black** will sponsor S 1462 on the floor.

**ADJOURN:** Chairman Deal asked the members to take their minute books and indicated this would be the last meeting for the session. There being no further business to come before the Committee, the meeting was adjourned at 10:06 A.M.

---

Representative Bill Deal  
Chairman

---

Karen Daniels  
Secretary

## **MINUTES**

### **SENATE AND HOUSE STATE AFFAIRS SUBCOMMITTEES FOR REVIEW OF ADMINISTRATIVE RULES**

**Meeting Date - June 19, 2006**

**Legislative Services Office Conference Room, Boise, Idaho**

Those in attendance included subcommittee group members, Senator Don Burtenshaw, Representative Bill Deal, Senator Curt McKenzie, Senator Clint Stennett, Representative Steve Smylie, and Representative Mary Lou Shepherd. Representative Smylie attended the meeting in person with all other subcommittee members participating by telephonic conference call. Others in attendance included Barbara Behner Kane and Jenny Grunke, Idaho Attorney General's Office; David Hahn, Division of Financial Management; Dave Minert and Jeff Minert, Minert and Associates; Doug Standlee, Deputy State Steward; Alan Horowitz, Capitol Racing at Les Bois Park; Director Jack Baker and Jacki Libengood, Idaho State Racing Commission; Bud Yost, Governor's Office; and Katharine Gerrity, Legislative Services Office.

The meeting was called to order at 10 a.m. pursuant to Section 67-454, Idaho Code, chaired by Senator McKenzie for the purpose of determining whether an objection would be made to one or more of the following rules of the Idaho State Racing Commission:

IDAPA 11.04.01 - Rules Governing Horse Racing (Docket 11-0401-0601)

IDAPA 11.04.01 - Rules Governing Horse Racing (Docket 11-0401-0602)

IDAPA 11.04.02 - Rules Governing Simulcasting (Docket 11-0402-0601)

IDAPA 11.04.02 - Rules Governing Simulcasting (Docket 11-0402-0602)

Senator McKenzie turned the meeting over to Rep. Smylie to explain their concerns relating to the rules.

Rep. Smylie proceeded to explain that the two primary issues of concern involve the rules relating to drug and alcohol testing. He noted that he was particularly interested in getting feedback from the Commission relating to comments received from the industry. In addition, he also indicated that he was interested in learning about the anticipated costs to the state and went on to say that he assumed costs will be coming out of the Commission's budget. Finally, he said that he was also interested in the rule that makes some changes regarding recognition of horsemen's groups.

Jenny Grunke said that she took some notes during meetings held with members of the industry last summer and fall regarding the rule changes. She indicated that her recollection is that all of the debate and discussion involved the rule as it related to

alcohol testing. She said that the parties in her recollection uniformly agreed that there was a need and a desire to have some type of drug testing policy for licensees based on safety concerns. Ms. Grunke indicated that the initial proposed rules were revised to make them not as strict for alcohol as for drug testing.

Alan Horowitz, General Manager with Capitol Racing, was also in attendance at some of the meetings. Capitol Racing is currently renting racing at Les Bois Park. Mr. Horowitz said they have a lease to operate horse racing through September of 2010. He went on to say that Capitol Racing has been in California for some time and that state, which has a much larger racing operation than Idaho, tends to have very strict rules. He noted that it has always been the intent of the board in California to make sure the participants act in a safe way because on the track you have many large animals, jockeys and handlers and you have the staff of the racing operation that operate the starting gate and are closely around the horses and participants. He said that from Capitol Racing's standpoint, they are very supportive of any rules that the Commission and Legislature promulgate with regard to alcohol and substance abuse given the dangerous activity of horse racing. He said they have some of the highest insurance rates for an industry in the state and nation and they believe it's essential for the participants to be regulated as it involves substance abuse.

Rep. Smylie asked whether someone would address the actual proposed rule (Docket 11-0401-0601). Given the fact that there was an earlier version of the rule, Senator Burtenshaw asked for confirmation that the underlying material in this docket is the most recent proposed rule. Jacki Libengood responded that it was and that the docket represents the proposal resulting from committee meetings and commission meetings and has been approved by the industry.

Ms. Libengood proceeded to address the various subsections of the rule. She proceeded to explain that in subsection 041 the primary purpose for testing is set forth. She indicated that subsection 042, provides definitions and was revised in regard to the definition of "suspension" by removing the word "employment." They did, she said, include a definition for "licensee, employee or applicant." "Employee" in terms of the definition are employees of the Commission meaning, for example, stewards or anyone else that receives their paycheck from the Commission. She explained that licensees are considered applicants until they have a license. She said they require jockeys to be tested and some would have to be tested before getting their license in order to be approved. Ms. Libengood went on to say that in subsection 042 "controlled substance" is also defined. She said that the testing procedures pursuant to the rule provide that the Commission can ask for testing to be done as part of examination or based on reasonable suspicion. Post-accident testing is also provided for. She indicated that under the rule, a refusal to test gives the Commission authority to discipline or suspend. She said that the testing procedures as provided are tied to established medical and law enforcement procedures. Ms. Libengood said that the rule goes on to set forth procedures if a test comes back positive, providing for written notice and an opportunity for explanation. The rule also provides for confidentiality. She said that subsection 052 relates to the consumption of alcohol and received the most discussion during the

meetings. She said it was agreed that any jockey, starter, assistant starter, pony person, outrider or racing official should not have any amount of alcohol present within their bodies while participating in any horse races held that day. Finally, she said that subsection 053 covers the testing expense.

Rep. Deal asked whether they would go back to subsection 044 relating to testing. He asked for a clarification about how the determination to test is made - whether its based on suspicion or whether it is random. Director Baker responded and said that they do both random as well as testing based on reasonable suspicion. He said that If they get a call from a jockey or trainer that has observed an irrational act, they will test that person. Sen. McKenzie asked when random testing is performed. Director Baker said that it could be at any time and they also use reasonable suspicion associated with the random tests. He said they test the jockey room around three or four times during a season which is an example of random testing.

Rep. Smylie asked whether testing will include those involved on the fair circuit. He said that one of his concerns is that when you talk about "licensee, applicant or employee" you are talking about a broad group. In addition, he said that he is very interested in the associated costs. Director Baker said the cost of regulation is always an issue but they don't feel you can put a price on making horse racing as clean as possible. With regard to the licensees, he said they will direct their main attention to those that have direct contact with the horses during the races and it will include tracks throughout the state, not just Les Bois Park. Rep. Smylie asked how many tests they anticipate administering and the cost per test. Director Baker said that at this point he would ask Mr. Minert to go over the contract for drug testing that the Commission has with Minert and Associates.

Dave Minert addressed the subcommittee to explain their contractual arrangement with the Commission. He is the president and owner of Minert and Associates. They provide drug and alcohol testing services for the Racing Commission. He said that they have been in business since 1991 and also provide testing for numerous cities and counties throughout Idaho as well as irrigation districts, highway districts, etc., He noted that his company has a lot of experience doing drug testing, especially in Idaho. He said that they were contacted by the Commission a number of years ago to work up a policy that was not implemented at that time and were then contacted a number of months ago to participate in the final language of the policy to ensure the policy was consistent with Idaho law and workable. They also put a bid in and the bid that was accepted was \$50 per drug test. He said that cost is a little more expensive than some of their testing but for a reason. He explained that the vast majority of tests will be done on evenings and weekends and the people that will do the testing typically don't work during those times. Consequently, he said they had to increase the costs about 25 percent. The cost of an alcohol test will be \$20. He went on to explain that drug tests are performed on urine tests and require devices consistent with Idaho law that have been approved by the FDA and also may include a laboratory test - all included in the \$50. The alcohol test, he said, is a breath test similar to that used by the Idaho State Police.

Rep. Smylie then asked how many tests are they looking at conducting. Director Baker said he suspects with the random testing and reasonable suspicions there would be well under a hundred tests per season.

Rep. Deal asked Mr. Minert whether there would be any discrimination relating to reasonable suspicion. Mr. Minert said that it would be based on observations made about a particular jockey or participant that appears to be impaired due to drugs or alcohol. It is a subjective test but it is intended to be done by people who are trained to recognize what they are likely to be seeing if a person is impaired. He said they don't anticipate that it would be used to harass or discriminate against individuals but simply to see that if a person appears to be impaired that you would test them to make sure if they are or not. Rep. Deal asked what happens in a situation of competition between jockeys, for example, and whether that might lead to a incident of discrimination. Director Baker said that the tests are done on site and they are very fast. Mr. Minert said that the drug and alcohol tests take only two to three minutes so if there is any allegation, the testing will be done right there and the person will know within minutes.

Sen. McKenzie was required to leave the meeting due to a conflict in his schedule and thanked all participants for the additional information provided.

Rep. Smylie asked whether the deputy attorney generals would comment relating to Rep. Deal's question. He added that it appears the definition of "reasonable suspicion" essentially just restates "reasonable suspicion" without providing any detail as to what is meant by that term. He asked whether this is something that could be used against rivals for the purpose of gaining advantage and how will this be handled in a day-to-day operation. Doug Standlee, State Steward, said that, as an example, they had an incident a week ago where they were contacted by a member of the facility at Les Bois indicating they felt another individual was under the influence. After due investigation, they tested and received a positive test. He said that he felt it was a great stride toward safety.

Barbara Behner Kane also addressed the issue and stated that in those federal circuits where they have reached the question as to whether or not a state can regulate horse racing, all those that she has seen do allow strict regulation by the state. She went on to note that with reasonable suspicion you run into the same problems as you do with that concept in police enforcement in that it always becomes a subjective test. She said we have to rely on the stewards and other employees of the Commission who are at the racetrack at that time and observing whoever is the subject of the allegations. She also said that there is a severability clause in the event a court ever thought any part of the rule wasn't constitutional.

Rep. Deal said that he believes his question has been answered and, having been involved with the horse industry for years, he believes that it is essential that we have a drug testing policy in place. He said Ms. Kane's explanation responded to his concerns and he believes the rules have been well thought through. He added that, in his opinion, in order to run a good operation on the tracks the Commission should have

the opportunity for testing of those individuals that are around the horses.

Rep. Smylie said that using the figures provided it looks like the yearly costs are anticipated at about \$5,000. Director Baker said that he wouldn't think it would go over \$5,000 and, if it did, it would be just a minor amount. He added that the funds are available in the budget.

Sen. Burtenshaw said that he believes that most of those at the track are conscientious and the fact that there may be a random test is a deterrent in his estimation. He agrees with Rep. Deal that this is an important part of racing.

Rep. Shepherd asked whether there would be any recrimination against a participant if the individual tested turned out to be clean. Doug Standlee said no - that the commission would be the one investigating and calling Minert and Associates for the testing.

Sen. Stennett asked whether this is the first time we have gone into drug and alcohol testing for state licensees. Both Katharine Gerrity and Rep. Smylie said they were not sure. Dave Minert said that alcohol testing is a common component for employees of the state that have a commercial license but Sen. Stennett reiterated that this rule covers *licensees*. Jenny Grunke responded that pursuant to this rule, it is only applicable to a few of the licensees that are handling horses on the day of the race meet. She added that it is not determinative of *whether* they get their license or apply in situations after the race is over. She said It specifically applies to those in direct contact with horses during a race meet.

Rep. Smylie asked about controlled substances that enhance performance. Dave Minert responded that the drugs that will be tested for are marijuana, cocaine, amphetamines, methamphetamines and opiates. Steroids are not included. Director Baker said that with the weight issue of jockeys that is probably not a concern, nor is fatigue.

Rep. Smylie asked what concerns were raised by the racing community. Jacki Libengood reiterated that the main concern involved alcohol. She said that the concern, more specifically, was that if an owner, for example, was in the Turf Club having a drink and then went down to have his picture taken in the winner's circle, whether the stewards could, if so inclined, have him tested and whether he could lose his license. That concern, she said, resulted in the change that the only people subject to the testing are those directly involved with the horses during the race day.

Jennie Grunke commented that during the meetings a lot of the discussion occurred on statutory changes that were made. In regard to the drug testing rule, the only point of discussion was relating to alcohol as noted by Jacki Libengood. Director Baker added that they have had nothing but praise from jockeys, trainers and owners that the Commission has brought itself up to speed with other jurisdictions with regard to alcohol and drug testing.



Rep. Smylie moved on to his final concern relating to recognition of horsemen's groups, Docket No. 1104010602. Director Baker prefaced his remarks that this issue has come up twice under his term - once in Idaho Falls and once in Boise. He said that both management teams wanted to create their own horsemen's groups because that is required to get a license. He said that with this rule change, he believes the Commission has come up with something that gives everyone the proper tool to form a new group if that is in the interest of a majority of the horsemen. He said that he believes it is a good tool to protect the present horsemen's group, to give a new group parameters of what they would have to do to form a new horsemen's group, and also to give the Commission the tools to determine who really is the majority of the horsemen.

Rep. Smylie said that in the past there has been controversy between some of the horsemen with concerns about preferential treatment, etc., He asked whether this may put an end to that concern and to in-fighting. Director Baker said you will never get complete agreement, but it will help them as regulators and it will help horsemen that believe a change is needed. He added that the horse industry helped put this together and there was no opposition.

Rep. Smylie asked if anyone would like to summarize. Director Baker said that he believes we now have, for the first time in history of Les Bois, a management team interested in growth and bringing the industry we have in Idaho across the nation. He went on to say that anything that the Commission and horsemen can do to help them achieve that is important for the survival of their industry. He said he wants to commend the group that has now taken over for their ideas, their integrity and foresight. He said that he thinks the rules will provide a cleaner operation and something that the whole industry can be proud of.

In response to a question from Sen. Burtenshaw, Director Baker responded that with regard to rule relating to horsemen's groups and the intent, the rule does spells out what a new group would have to go through to become certified - he said that it is spelled out very clearly.

Jenny Grunke noted that the Legislature has delegated to the Racing Commission the authority to regulate, supervise and license race meets and she is of the opinion that the rules as presented do not exceed or misuse that authority.

Rep. Smylie thanked everyone for being there. There were no motions made to file an objection. The meeting adjourned at 11:15 a.m.