

MINUTES  
**HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Tuesday, February 09, 2016

**TIME:** 1:30 P.M.

**PLACE:** Room EW05

**MEMBERS:** Chairman Hartgen (Hartgen), Vice Chairman Anderson, Representatives Harris, Holtzclaw, Romrell, Chaney, Horman, Nielsen, Packer, Redman, King, Chew, Rudolph

**ABSENT/  
EXCUSED:** None

**GUESTS:** The sign in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign in sheet will be filed with the minutes in the Legislative Library.

**Vice Chairman Anderson** called the meeting to order at 1:29 p.m.

**MOTION:** **Rep. Redman** made a motion to approve the minutes of the February 1, 2016, meeting. **Motion carried by voice vote.**

**RS 24324:** **Rep. Sue Chew**, District 17, presented **RS 24324** regarding the recognition of National Apprenticeship Week. In 2015, Governor Otter signed a proclamation proclaiming November 2nd to 6th to be Idaho Apprenticeship Week. Apprenticeships help workers to "earn while you learn" and increase wages. College is not a good fit for everyone and apprenticeships can create a pathway to middle-class jobs without a four year degree. Apprenticeships are part of the tools available to train a 21st Century workforce.

**ORIGINAL MOTION:** **Rep. Chaney** made a motion to introduce **RS 24324**.

**SUBSTITUTE MOTION:** **Rep. King** made a motion to introduce **RS 24324** and recommend it be sent directly to the Second Reading Calendar.

**Rep. Rudolph** expressed his support of **RS 24324**. His father was a machine shop owner and had many apprentices who were able to go on to become journeymen and earn a good wage. **Rep. Nielsen** had concerns regarding the substitute motion and would like more time for public input. **Rep. Chaney** indicated he would vote in support of the substitute motion.

**VOTE ON SUBSTITUTE MOTION:** **Chairman Anderson** called for a vote on the substitute motion to introduce **RS 24324** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Chew** will sponsor the bill on the floor.

**H 398:** **Dale Higer**, Chairman, Idaho Commission on Uniform State Laws presented **H 398** regarding the Revised Uniform Athlete Agents Act. The Uniform Athlete Agents Act (UAAA) was adopted in Idaho in 2001. Forty-two states and districts have adopted this Act. Abuses have continued since then and Mr. Higer outlined examples of the abuse. In response to these abuses many states have amended the UAAA thereby making it less uniform. **H 398** is the product of the drafting committee and a two year process reviewing the UAAA and meeting with all stakeholders. The Revised Uniform Athlete Agents Act (RUAAA) updates and improves the definition of "athlete agent," providing for reciprocal registration of agents, adding new requirements to the signing of an agency contract, expanding the notification requirements to educational institutions and providing remedies to student athletes. The term "athletic agent" now includes financial advisors, business advisors and

career managers. Mr. Higer reviewed the details of additional changes. The RUAAA has been endorsed by Boise State University and University of Idaho.

In response to questions from the committee regarding concerns of penalties, **Mr. Higer** assured the members that this legislation would not shift culpability, but rather assist compliance officers to do their job. Concerns were also raised about students who wanted to change their minds after signing a contract. Mr. Higer reminded the committee that there are many warnings to the students before they sign contracts and that the rules regarding eligibility have been in place since 2001. The revisions to the UAAA have been vetted for the last two years.

**MOTION:** **Rep. Packer** made a motion to send **H 398** to the floor with a **DO PASS** recommendation.

In discussion of the motion, it was asked if there was a representative from University of Idaho who would speak on the bill. **Mr. Joe Stegner**, said the University of Idaho had reviewed the bill and it is an improvement from the UAAA. It protects the students from agents that misrepresent themselves. The language of the RUAAA is a guideline for individual to follow and he felt there is room for reconsideration of those entering into contracts if needed. **Rep. Nielsen** said he liked the bill in general, but was bothered by the language and felt it could be written better.

**VOTE ON MOTION:** **Chairman Anderson** called for a vote on the motion to send **H 398** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Nielsen** requested he be recorded as voting **NAY**. **Rep. Harris** will sponsor the bill on the floor.

**H 435:** **Mike McPeak**, Gardner Law Office, presented **H 435** that has been proposed out of concern for the impact of the Idaho Supreme Court's 2009 decision *Neel vs. Western Contruction Inc.* has on the payment of medical expenses in workers' compensation cases and on workers' compensation claim costs. *Neel* applies to cases which are decided by the Industrial Commission. Medical expenses make up an estimated 60% to 70% of the total costs of workers' compensation claims in Idaho. To assist in controlling costs the legislature in 2005 gave the Industrial Commission statutory authority to adopt medical fee schedules. Mr. McPeak reviewed how costs impact Idaho businesses. Mr. McPeak stated the imposition of *Neel* in a specific case essentially results in payment of an additional 54% above the fee schedule amount. The court's action effectively imposes a judicially created financial penalty on employers and insurance companies who have acted reasonably. **H 435** seeks to restore the balance by returning the workers' compensation system to the status quo prior to *Neel*.

In response to questions from the committee, **Mr. McPeak** let the committee know there was not a consensus from stakeholders. There was a question regarding whether there was an appeal in front of the Idaho Supreme Court or not. There were many concerns from the committee members on the financial costs to claimants and unreasonable denials. Mr. McPeak said of the 900 claims filed last year, 80% were settled or used mediation.

Speaking **in opposition** of the bill was **James F. Kile**, former Chairman, Idaho Industrial Commission, who testified that the current system is well balanced and finely tuned. There is a current compromise between labor, business and insurance companies. Mr. Kile is concerned that any changes will affect the fragile nature of the law and states the fee schedule rates are set to encourage employers to accept the claim. The net effect of **H 435** would be to disrupt the balance that has taken years to set up.

**Kelly Edens**, citizen, provided his personal experiences with being injured on the job twice in the last ten years. He is still battling the insurance companies to settle his case and has spent over \$100,000 out of pocket on medical expenses. Mr. Edens feels that if **H 435** is passed it would hurt his ability to recover the money he has spent out of pocket.

**Barbara Jorden**, Idaho Trial Lawyers Association (ITLA), testified against the bill and asked the committee to hold **H 435**. Ms. Jordan reviewed the impact of the *Neel* decision as well as the current scenario of the fee schedule and the process an injured worker goes through to file a claim and when the Idaho Industrial Commission comes into play. She then turned the time over to **James Ruchti**, ITLA, to further the testimony. Mr. Ruchti mentioned that *Neel* is an incentive to insurance companies to think carefully before they deny treatment.

**Rep. Packer** declared Rule 38 stating a possible conflict of interest but she would be voting on the legislation. She stated her experience dealing with insurance companies in her job.

**MOTION:**

**Rep. Packer** made a motion to **HOLD H 435** in committee.

In discussion of the motion, **Rep. Packer** outlined her reasoning to hold the bill in committee. She feels the Governor's advisory committee should do due diligence and there may be a Idaho Supreme Court ruling that would address some of the concerns stated.

Testimony continued with **Al Gardner**, Gardner Law Office, **in support of H 435**. He was concerned with the misconceptions regarding fairness and insurance companies looking to deny claims.

**Mike McPeak** closed his presentation and stood for questions from the committee. Questions were asked about the phrase "reasonable grounds" on the last line of the statement of purpose. Mr. McPeak stated that if there is a reasonable reason to deny a claim, there is no reason for attorney fees. A question was also asked regarding appeals from the Idaho Industrial Commission. There is an appeal process built in to the hearing process at the Industrial Commission.

**UNANIMOUS  
CONSENT  
REQUEST:**

**Rep. Harris** made a unanimous consent request to call for the question. There being no objection, the request was granted.

**VOTE ON  
MOTION:**

**Chairman Anderson** called for the vote on the motion to **HOLD H 435** in committee. **Motion carried by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting adjourned at 3:33 p.m.

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Representative Anderson  
Vice Chair

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Michele Jarvis  
Secretary