

House Commerce & Human Resources Committee

Minutes
2005



MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES & SENATE COMMERCE AND HUMAN RESOURCES MEETING AS THE CHANGE IN EMPLOYMENT COMPENSATION COMMITTEE

DATE: January 7, 2005

TIME: 8:30

PLACE: Room 416

MEMBERS: Co-Chairman Schaefer, Co-Chairman Andreason, Representatives McKague, Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart, Senators Coiner, Cameron, Stegner, Goedde, Broadsword, Werk, Malepeai.

**ABSENT/
EXCUSED:** Senator Compton

GUESTS: See Attachment A

Note: The average market rate for the pay grade assigned to an employee's job classification is often referred to as the "Policy Rate." "Policy" is also used by employees to refer to the midpoint of the pay range.

Co-Chairman Schaefer called the meeting to order at 8:40

Matt Freeman spoke and reviewed the legal requirements for the committee. Anne Heileman, Director of the Division of Human Resources submitted her report December 1. The Governor will submit his recommendations prior to the 7th legislative day. The Legislature then can accept, modify, or reject the recommendations. Failure to act approves the Governor's recommendations. (See Attachment 1)

HCR 47 last year was a policy statement and said if there was enough money at the end of the year, the state employees would get a 1% temporary increase in pay, in addition to the 2% permanent they received. There was guidance given on the use of one-time and on-going salary savings to help with salary increases.

Agencies were directed to focus the savings on groups with significant lag in salary such as nurses and Information Technology (IT) people.

Don Drum, Administrator of Support Services from the Department of Correction, spoke. The Department works in a difficult environment. This has resulted in a high turnover rate and excessive use of sick time. Pay is an issue as well as morale. They have tried to reduce mandatory overtime and pay their employees more. Fourteen hundred employees had not received a pay raise in three years. They implemented their pay increase early. Many employees hold a second job in order to support their families. One thousand twenty-two employees received at least a 2% increase. A few were disqualified by the State's rules. Some employees received an additional 1% to 3%. The standards were extremely high and there was considerable review. For the August 1% temporary pay increase, the same criteria was basically used. For this pay out, those who had a good performance rating, but had only worked six months were included. (See Attachment 2)

Employee morale is important. They are doing what they can in other areas, but funding is essential. The Department of Correction has the third lowest compensation rate in the state. Employees have a heavy responsibility. The turnover for corrections officer is 21% as a whole, but at Maximum Security, it is 42%. They are now doing required exit surveys before a person

leaves. He doesn't know what percentage of employees have a second job, but he promised to get that information to the Committee.

In response to questions, Mr. Drum said the national turn-over rate is 21% nationally, but it is only 30% in Maximum Security. They are trying to get more seasoned employees in maximum security. He said they are working on scheduling so employees do not have to work a second shift at the last moment.

Senator Andreason arrived at 9:15 and assumed Chairmanship of the meeting.

Mary Harker, of the Idaho Transportation Department, spoke. She said that one of the challenges her Department faces is the high turn-over of technicians—those who work out on the road. The cities and counties pay \$3 to \$4 more per hour for the same work and when they change jobs they can keep their PERSI benefits. It takes over 18 years to reach the policy point. New hires are receiving an average of 10-15% above the entry rate in order to get competent people.

She said that they recognize the Department's most valuable resource is their workers. They try to retain the high performing employees and address market competitiveness. Pay is one of the most tangible evidences of value.

She gave the details of the way raises were handled in her Department. (See Attachment 3)

In response to questions, Ms. Harker said that there is a set program with follow-up when an employee falls below expectations.

When asked about the 16 employees who received raises in excess of 10%, she said the executive team who had not received an increase for 3 years received this money after the CEC money was distributed.

She promised to get information on the number of employees whose salaries put them below the state poverty level to the Committee.

Lt. Col. Kevin Johnson, Deputy Director for the Idaho State Police (ISP), spoke. He said that ISP face competition from other police agencies who offer pay increases and career enhancement opportunities that they cannot. They have had a real problem with an exodus of officers with 3-5 years of experience. Director Charboneau provided a plan. (See Attachment 4) Lt. Col. Johnson thanked the Legislature for their direction and funding. They implemented the program three months early, on March 28.

In addition, part-time employees who get benefits got a 1% increase; part-time employees who do not get benefits, got a 2% raise. The 1% one time money was based on the April 1 salary which included the March 28 raise.

Employees were happy with the increases and some officers postponed their search for other jobs. This was a valuable first step in stopping the drain of officers. More work is still needed.

Forensic Services was able to stop the exodus by removing two part-time employees and another full time position. The salary savings were used to give raises to the current employees.

In response to questions, he said it takes \$100,000 to put an officer on the road. Senator Goedde remarked on the high cost to ISP if an officer leaves after 3-5 years.

Diana Jansen, Administrator for Human Resources for the Department of Health and Welfare, spoke. (See Attachment 5) She went through their criteria for the increases. Some groups were excluded besides those whose performance was below par, or those who were on probation. Some had received recent promotions and some had already received market rate increases. She said she would provide information for the 37 she said did not receive a raise, to Co-Chairmen Schaefer and Andreason. Family and Community Services has the largest number of nurses and social workers.

In response to a question concerning the number of complaints that representatives have received stating that pay-for-performance was not used and that employees were not being treated with dignity or professionally by their supervisors, Ms. Jansen said they are working on communication and the development of managers.

In response to the question about employees who received a performance report equal to or better than the Legislature specified, but received no pay increase, Ms. Jansen said the manager in each case felt their pay was commensurate with their performance. She said it only

happened with 12 employees. The Committee was not satisfied with her answers.

Co-Chairman Schaefer said various Representatives have received a lot of letters from employees who have been hurt by Health and Welfare's refusal to reward them according to the stated intent of the Legislature. He received a complaint that the Director, who only works a few hours a day, received a 6% raise. His work hours are limited because of health problems, but two ladies who missed work because of health problems lost their jobs.

Ms. Jansen said people are always unhappy, even if they give an across-the-board raise. They were required to pay for performance, and they did. She said if she was given names, she would follow up on the individuals and give the Committee the information. She agreed to also give the listing by position of those who got a 6% or higher salary increase.

Co-Chairman Schaefer asked if the State of Idaho is being penalized by the Federal Government 1 million dollars for not performing properly in some area. He wanted to know who was responsible and why, and what is being done to correct the problem. Did those who are responsible for this situation get a raise? Ms. Jansen promised the information to the Committee.

Ms. Jansen said they rewarded their top performers. They shorted others so their top performers could be rewarded to a greater extent. They did not do the 2% across the board.

Co-Chairman Andreason commented that when the Legislature gives the money to do an across-the-board raise and the Health and Welfare Department does not do it, they are ignoring the direction and intention of the Legislature.

Ms. Jansen promised to provide the information as to which programs and supervisors shorted some employees to benefit others.

The comment was made that they didn't want to shoot the messenger, but the Director of Health and Welfare needs to hear the message.

Ann Heilman, Director of the Division of Human Resources, spoke. (See Attachment 6) Some agencies gave a 2% across the board pay raise, other departments had more disparity. A report is coming. The state has about 25,000 employees.

She said the CEC (Change in Employee Compensation) money does not go to an across-the-board raise unless it is specified in the law. Employees hired for the same exact job do not get the same money. When turn-overs occur, managers are free to use the money saved for temporary, or permanent, pay increases or bonuses. Across-the-board pay raises are not allowed.

There is no limit on how much sick leave a state employee may accrue over their career. However there is a limit to the sick leave amount that can be translated to pay the premiums on insurance for group health, accident and life insurance through PERSI.

Ms. Heileman said that state government has some of the most varied employment groups in the country. Her Division does salary surveys every year. They use unbiased, reputable, scientific surveys that have detailed job descriptions to match those jobs in the state. She said there is an average of a 14.2% lag in pay for Idaho government jobs. Information Technology positions are 25.5% below market.

Benefit costs have been climbing rapidly in both private and public sectors. On the average, the state pays an amount in benefits equal to 37% of the salary. Based on Mercer's Model, in comparison to the western region for both private and public employees, the State is slightly more competitive in benefits. It is better with pension plans, but less competitive with 401K plans. She said simply comparing benefit costs does not give an accurate picture of the benefits offered. Benefit information is proprietary, so difficult to obtain. In the last few years, the state has spent money on benefits, even when their employees did not receive a raise. Our system is designed for the career employee and this can hurt the new employee.

As a cost savings, the state instituted a ninety day wait for health insurance for new employees. This does have a bad effect on recruiting new employees in some cases.

Health costs will rise double digit again this year. The extra pay period in 2006 will cost the state 20 million dollars. (It only happens once every 11 years.)

Employee turn over is about 13% state wide. In some areas, the turn over rate is much higher—for example, the medical and protective services. Engineering turn over is low because many of our engineers are getting close to retirement. The average age for a state employee is 47 years, 10 years older than the average age for private employers.

PERSI is a very attractive tool for holding employees, but it is not portable. The health insurance is particularly valuable to those in the lower pay grades. The labor market is still soft, even though the job market is getting better.

Nurses are in great demand. There is a shortage of nurses, and hospitals have incredibly high recruiting practices, including bonuses.

We have incredible amounts of money invested in the training of our Idaho State Troopers. A 13% turnover is way too high. The work is also very difficult for corrections officers.

The top amount of money we can legally pay some people is the market average right now. This is in code. It costs a lot of money to adjust the pay schedule and it gives the new employees the biggest raises. This compresses the salary for everyone else. The pay schedule needs to be adjusted. There are a lot of employees paid in the lower ranges of the scale.

By 2010, the state retirement rate will increase by 40%, then up to 60% in 2014. When a replacement person is hired, often the salary has to be above the salary of the retiree. The days of working for one employer for an entire working career are over. Workers want a portable retirement that they can take with them when they change jobs. The State will need to attract mid-career professionals. The benefits packages may need to be tiered. She raised the question of discontinuing health benefits for part-time employees. The cost is the same for either full time or part time employees.

She said a review and an update is needed. The State may not have the money really needed, and may never have, but there are things that can be done. She proposed a five-year plan. She said a commitment to adjust the pay needs to be made. The cost is high. She suggested that the State may need multiple pay schedules which are tied more closely to the external market rates. She suggested the Governor and the Legislature should focus on funding needs of defined occupations. She said any change is going to need broad support.

Ms. Heileman gave her recommendations. She asked that the Legislature budget as much CEC money as possible, up to 6.7 percent, for all agencies. She said it costs the State 5 million dollars for each 1% of salary increase. She also requested a 10% increase for permanent merit raises for all jobs requiring registered nurses.

She asked the Legislature to infuse as much one-time money as possible to support retention and recognition. She recommended a 3% increase, triggered by a year-end surplus for one-time awards up to 10% of an employee's salary, for performance.

She asked for special legislation to allow one-time merit or bonus awards from savings in operating or capital outlay budgets, after the first 6 months of FY06.

She said it is going to cost an additional \$11.7 million for health insurance increases this next year. She asked for a special directive to promote health and wellness among the employees. This could reduce the costs of insurance as the rates are based on actual expenses. New money isn't needed as her department can cover that, but "marching orders" are needed.

She opposed any expansion of retirement program benefits, such as the removal of the cap on unused sick leave hours that can be transferred to insurance premiums. The cost of this action, estimated at 1.4 million, needs to be focused towards salary increases for the active employee population.

Ms. Heileman said a new task force needs to be appointed to design a new strategic plan for state employee compensation. The team could be composed of members of the Legislature, the corporate community, and staffed by DHR (Division of Human Resources) Help could also be provided by the Division of Financial Management, and experts from the Department of Commerce and Labor. Consultation services could be provided by the Hay Group, as well as state and local human resources experts. Other than travel costs for the Legislative members, and Hay Consultation, costs could be absorbed by the DHR.

She was asked about the number of employees receiving an annual salary of \$10,000 to \$20,000 decreasing and an equal increase of those earning over \$50,000. **Gabe Wesky** said this is because of salary increases. As time goes on, it gets very difficult to hire someone at a salary of between \$10,000 and \$20,000 a year. The \$50,000 and over is more competitive, especially for new hires. He was asked by the Committee for information to show we are paying

equally for equal work done.

Ms. Heileman was asked by Senator Goedde for the number of employees who did not receive a merit pay raise, and the statistics of how many were on six-month probation, and how many did not get a merit raise because of poor performance, or because of other situations. Ms. Heileman said the standard was “meets expectations”—satisfactory performance. There is a whole range of ratings above that. Human nature enters in, regardless of the amount of training. If a supervisor is hesitant to confront an employee about problems, the total of those failing to meet expectations may be too low.

Rep. Lake pointed out that smaller businesses are not surveyed as to salaries they pay, so this may skew the numbers for salaries paid in the state.

In response to the question concerning the number of positions not filled, Ms. Heileman said that after 6 months of vacancy, the job goes away. Managers will make changes to the requirements for the job, such as accept a lesser level of expertise and then train the person, in order to fill the job before the expiration date.

Rep. Lake commented that using salary savings to give permanent raises can cause a problem. The University of Idaho did this, and then the unfilled positions were taken away, leaving a shortfall. Ms. Heileman said that the Idaho Police got special permission from JFAC to use salary savings for permanent raises.

The meeting recessed at 12:30 for lunch.

Vice-Chairman Schaefer started the meeting at 1:30.

Alan Winkle, Executive Director of PERSI, started out with a brief review of PERSI (Public Employee Retirement System of Idaho.) He said the Legislature is the sponsor of the system and sets the rules and regulations. PERSI administers the program. (See Attachment 7.) He discussed some of the demographics, behaviors of members, the funding status of COLA (Cost of Living Allowance), the PERSI 401(K) choice plan, investment performance, unused sick leave program, and the police officers death benefit program.

He said that PERSI covers the vast majority of public employers in the State of Idaho. Counties and cities are in the program under contract. No employer withdrew last year.

He said there has been a net growth in numbers. The average age at retirement is 61.2. The years of service are increasing and people are retiring at an earlier age.

The last two calendar years saw a significant increase in the number of retirees. This trend is expected to continue. The average age of active employees is getting older with the baby boomers. As they are retiring, PERSI's work load is increasing. Teachers make up 70% of the employee base.

Actuarial Valuation is a statistical projection of what has been promised to members based on assumptions. At this point, PERSI is 82.2% funded. This was a good year, with a good return on investment, so the PERSI fund is larger than was expected at this point in time. They expected to earn 8%, but they earned 18% on the monies invested. The unfunded liability is less than half of what it was expected to be at this point in time. It is a little less than 7.5 million dollars.

This year they were able to promise to pay .3% of the CPI that had not been met previously as a COLA (Cost of Living Adjustment). The Legislature has until the 45th day of session to reject this COLA or it goes into effect. The Legislature has never modified or rejected any proposed COLA increase.

The gain sharing bill allowed a build up of excess assets to 113% of liability which provided a buffer for the first market shock. With the amortization rate set at 25 years, the Board had to increase the contribution rates after the second year of negative returns. The rate increase will be slowly phased in over three years until it matches the 1997 rates. Employees pay 1/3 and employers pay 2/3 of the cost of PERSI. The money is taken out pre-tax, so the effect is slightly different.

Police and firefighters have higher salaries and pay higher premiums. In 2010, the cash flow will become negative. This is provided for in the money already invested, and is the evidence of a mature system.

They do have a 401K plan which is unusual for PERSI in the US. Members are taking advantage of this and the plan is growing. Today the average account is \$3,300. Most of the money is in an account that is managed along with the PERSI plan.

Comparing to the market index, the managers of PERSI did very well.

He mentioned the Unused Sick Leave Program referred to by Ms. Heileman. It was started in 1976, and applied to school teachers in 1978. There were two purposes: 1) address the medical costs for retirees, and 2) provide an incentive and a reward for employees to use their sick leave judiciously. It was actuarially funded in 1988. The benefit is half of the value of sick leave (hourly rate times hours of sick leave) at the time of retirement to a limit of 600 hours. PERSI acts as the agent for the employer to pay medical insurance premiums. It is limited to the control of PERSI.

This program has received a lot of attention recently. They are working to solve the issues. The State sick leave cap is now 600 hours. It would take a considerable amount of money to pay for the removal of the cap.

As to the death benefit for public officers, it is patterned after the federal Fallen Hero's Program. Some police officer organizations weren't in PERSI in 2001, but now all of them are expected to be in PERSI now.

The question was raised that since younger employees prefer a 410K rather than PERSI, because of portability, wouldn't a switch to this type of funding wipe out PERSI? Mr Winkle replied that PERSI couldn't continue to pay COLAS if this happened. It could be done, but it would be "painful." Three states have tried a program making it optional for new employees to join PERSI or a 401K plan. They are finding that less than 10% of the new employees are choosing the 401K plan. PERSI will be watching this develop over time. Private sectors are committed to the 401K program today.

In response to questions, Mr. Winkle said the contribution rates are going up. The PERSI Board does not feel that this next year will be as good as this last year.

A concern was expressed that the rates are going up to fund COLAs for retirees at the expense of the active employees who are receiving less take-home pay. Mr. Winkle said that the funding is driven by the earnings. There was a year they didn't pay COLAs. That is the way the plan was set up.

Pam Ahrens, Director of the Department of Administration, spoke. She introduced Rick Thompson, who is in charge of health insurance, in addition to other duties.

Her department is responsible for the insurance coverage across the state—health, liability, and other types. (See Attachment 8)

They assume that the cost of health benefits will increase 12%. They hope to hold the increase to 10% with cost containment procedures. This information is also available on the web site. Rising health care costs pose the greatest threat to economic growth. The costs of drugs seems to be declining slightly.

She gave an overview of the employee benefits. The medical and dental costs are shared by the employees and the state. The state pays for the integrated behavioral health and the basic life and disability coverage. Employees do participate in a flexible spending account and they may choose to pay for supplemental life insurance. The State of Idaho pays 91% of the medical insurance costs. (She explained that "retention" is the administrative cost the insurance carrier charges.)

This year they did thorough research, looking for a new health plan. This resulted in a change of carriers. Switching carriers was a major undertaking, but it went quite well.

Changes to the current year's program resulted in more insurance for less money. There also has been administrative assistance from the new carrier which has helped the Division of Administrative Services. They will be able to retrieve information as to trends in counties across the state. With on-line enrollment, they were able to transfer over 80% of the enrollees on-line. People are now able to log on 24/7 and view their own medical coverage.

Prescription costs had been rising consistently, over 22% annually. In 2003 they reduced the increase to 2% when a higher co-pay was instituted. They expect the costs will continue to rise. Overall, people are choosing generic drugs 96% of the time. They expect to spend \$632 per full-time employee or \$.30 an hour for health, dental and behavioral health.

They hope to start a program to manage two high cost diseases—cardiac disease and diabetes.

In response to questions, she said the larger the pool, the easier it is to reduce rates. She did not think combining with other states would help as we are experience rated. That is,

we are buying insurance based on the average age of our group which is 48 including our retirees and their expenses. The likelihood that it can be reduced further is slim. We don't have enough younger people in our group to bring down the costs per person.

In response to questions, **Mr. Stuart** from Blue Cross said he did not know of any states that had combined health insurance programs. He said they work with WellPoint Pharmacy Management and are able to negotiate some of the best drug pricing in the United States. Currently 90% of the pharmacies in the state are in their system. In response to having just one pharmacy eligible, he said they could look into it, but it could be difficult for people in towns where the approved pharmacy wasn't located or it wasn't open at night.

Vicki Patterson, lobbyist for the Idaho Public Employees Association (IPEA), spoke. She said the IPEA is not a union, but speaks up for the State of Idaho employees. She then deferred to the State employees who wished to speak.

Officer Bevry spoke of the dangers working in Corrections. She said officers are being required to work overtime and extra shifts. This has contributed to the break-up of some marriages. They are short of people and there are vacancies that haven't been filled. She asked for more money and a limit to out-of-pocket expenses. She said she had been granted merit raises twice and then the raise was taken away from her.

She told of a chilling incident where she became convinced that a notoriously violent criminal was going to commit a violent crime against someone on the next shift—which included her daughter. She ordered an inspection of his cell, and a shiv was found.

Lt. Al Ramirez, of the Department of Corrections, spoke. He went to work for the Department in 1993 after an honorable discharge from the Marine Corps. He is also in the Reserves. He is proud of his people. They work hard and there is a high level of professionalism among his workers. Recruitment has been difficult for Maximum Security with its 47% turnover. In the 2004 calendar year there were 1000 incidents of disruptive behaviors, including 32 staff assaults. The doors opened automatically several times due to a malfunction in the electrical system, and this could have put the officers at great risk. They hope to mold and shape new staff into professional officers. He asked for help.

Sgt. Jay Lau, who has been at Maximum Security for 5 ½ years, spoke. He mentioned the types of criminals they deal with working there and commented he had "seen more blood shed than Hollywood can produce." He pulled a prisoner off a guard just recently. He has been injured 3 times on the job. He said morale and wages are low. He schedules staff and tracks numbers.

In calendar year 2004, 65 officers and 10 supervisors left for various reasons. Resignations There were 37 resignations—one every 10 days. Twenty resignations were due to the need for higher paying jobs. Twenty-four officers transferred saying the pay wasn't worth the risk. On average 6.25 staff members leave every month. It is a revolving door. Right now he has 55 inexperienced, probationary officers working—those with less than one year of experience. Ninety-two out of the 102 employees have less than 10 years of experience.

He said employees consider a job with the Department of Corrections only a temporary job. He said the majority of their people leave because there isn't enough money to survive. He asked for more money for sergeants and lieutenants.

When asked if they have asked the head of their department for raises, **Officer Bevry** said she attended a Board of Corrections meeting and was not allowed to speak on the subject.

Charles Katchum, an Idaho State Police Trooper, spoke. He asked for help to keep the trained and productive members of the force they have now. He said the Department is competitive with brand new troopers, but in the 3-5 year experience level, ISP falls way behind in pay. It takes up to 9 months and \$90,000 to \$100,000 to train a trooper. They lost 5 troopers last year at a cost of \$500,000. The cities are competing for these officers. He said at the moment (3 p.m. Friday afternoon) there were 33 officers on the road in all of Idaho--3/4 of a trooper for each county. Between 4 to 6 p.m. at night, it will drop to 27 officers. He asked that ISP be moved outside the Hay Plan. He asked for a career ladder for pay. He said ISP is becoming the training field as officers can make more money elsewhere. Personally, he will not leave, but other officers are leaving. He said their administration did a wonderful job with the money that was given them. It did help to stem the tide for now. He made an open offer to any committee member to take a ride with him in his patrol car.

Melissa Stoker, of the Idaho State Police spoke. She works in the Emergency Communications Centers which are experiencing a high turnover and recruitment difficulties. In the past year as a manager, she worked 600 hours of overtime. Each of her employees worked at least 300 hours. She is a manager and there is no increase in salary for her. At 25 years of work she said she will still be at the same salary. A trooper with three kids qualified for food stamps, but didn't get them because he occasionally works overtime and this puts him above the required amount to qualify.

Jennifer Sullivan, a regional communications officer for ISP from Coeur d'Alene, spoke. She thanked the Committee for the raise this last year. She said there are great people employed by the ISP, but employees use it as a stepping stone, not a career. The Washington State Patrol pays \$15.73 an hour or more. Idaho is falling behind in compensation for specialized skills. People leave ISP not because they don't like ISP, but because they need more money.

Mike Esposito, from Boise State spoke. He is President of the Professional Staff Association at BSU. His group covers 550 individuals who work in such areas as the Registrar's Office and Human Resources. He thanked the Legislature for the 2% permanent and the 1% temporary increase. He has received positive feed-back from employees. The professional staff at BSU loves working with the students and for the State of Idaho. They are asking for an investment in their employees by raising the CEC and helping them serve the students at BSU. He asked that all of Ann Heilman's recommendations be implemented.

Connie Charlton, of BSU, spoke. She is President of the Association of Classified Employees. She thanked the Legislature for the money last year. However she said 10% of the employees are working two jobs, and not just those with one member working. With private donations and help from the cafeteria food supplier, they are providing a few meals a month for some employees who are facing real economic hardship. Over 300 employees have taken advantage of this offer. She agreed that BSU did well with the extra money they did receive.

Marshall Haynes, from the Idaho Conservation Officers Association, spoke. He said he represented 100 State Fish and Game officers. The officers' positions are funded by fish and game licenses. There are 103 enforcement positions, including supervisors. Of the 74 senior conservation officers, only 7 are at or above the pay policy line. They asked that non General Fund agencies receive the same raises that General Fund agencies receive. It did happen in 2004, but not in some previous years. More money is needed. Their wages lag 4% behind other state employees. Currently license fees are the only source of funding. They support an increase in fees to help increase salaries.

Bill Landon, from the Idaho Conservation Officers Association, spoke. He said that their officers have to go through the POST Academy and have similar enforcement duties. All of their officers have degrees. It takes 9 years for an ISP trooper to reach policy, but at 15 years, not one Fish and Game officer is at policy. At 20 years, only one officer is at policy. When asked how the money is divided, Officer Landon said that the money is divided among three subdivisions, and some have more officers than other to cover with the money granted.

Officer Haynes said officers are getting close to retirement and are still not at policy. They need to be closer to policy.

Officer Landon asked in closing that the recommendations for CEC be carried over to their non General Funded officers.

Kathie Blakeslee, of the Bureau of Facility Standards in Health and Welfare, spoke. She said they have a problem with the constant turnover of nurses. Her bureau staff met the qualifications, but received \$.88 a day increase on average. She said State employees deserve better. All the time they are doing more with less. She asked that wages be raised, but not offset by an increase in the cost of health benefits to employees.

Tim O'Leary, Human Resource Director of the Idaho State Police, spoke. He said that private industry realizes the investment in their people and gives top performers considerable extra rewards. The ISP went out on a limb to give some of the raises to their employees. No one has all the answers. He said we face some challenges ahead of us. He offered to help in any way possible. He urged members of the Committee to take Trooper Katchum up on his offer for a ride-along.

Kip Sherry, of the Department of Corrections, spoke. He thanked the Committee for the

raise last year. He encouraged the members to continue with the good work started last year. He said the Governor promised to remember the state employees when times got better if they stuck through the hard times. He asked that employees with 5 years or more of service be moved up to the mid point of the salary range.

Terry Tewell, in Family and Children's Services at the Department of Health and Welfare, spoke. He thanked the Committee for last year's raise. He said he is no longer proud to be a state employee. He has worked for the state for 20 years. He said more employees have left in the last two or three years than in a number of prior years. When people leave, they take a lot of the knowledge that has come from years of experience with them. He said with the high stress work loads and low morale, the state is getting the reputation as an employer to be avoided. Some people did not get a raise as they were told they had "limited future performance potential. In other words, they had no future value to the Department. This is going to hurt the State in recruitment of employees with a good work ethic. (Mr. Tewell received his 2% raise.)

Chairman Schaefer said he has stated a number of times that he believes Health and Welfare needs a change at the top.

Paul Moritz, of the Idaho Transportation Department (ITD), spoke. He works on the road. He runs snow plows and does other things to keep the road safe for the public. He said they are having a big problem with turnover and retaining highly qualified trained personnel. People leave because of the low pay. They give up when they hear they will never achieve policy. The State trains them, and then loses them to the private sector or other agencies. Training new employees takes time and money. There is training time in the classroom and on the job. They didn't get a raise for three years. After 6 ½ years, he is at 80% of policy. He asked that once fully trained, a person should be at policy after five years. In his sheds with 12 workers, he has seen 15 workers come and go in his 6 ½ years.

Mary Harker, Director of the ITD, said that technicians have a higher rate of turnover than the rest of the Department.

Bob McCall, Board member of SEIU 687 and employee of BSU since 1986, spoke. He said the average state wage is below the "living wage" as defined by the Job Gap Study from someone at Seattle University. He said the "living wage" jobs are moving off-shore. He said that most of the new jobs in Idaho fall below the "living wage." He thanked the Committee for the raise last year and said the adjunct faculty received

Carl J. Vaughn, of the Idaho Transportation Department, spoke. He works in a maintenance department outside of Mountain Home. He said if a person is a classified employee, overtime is only acquired after an individual has worked 40 hours in a week. This policy covers everyone. In emergency situations, the supervisor doesn't want to pay overtime, the regular hours for that week are adjusted. He gave the example of a single parent called out in the middle of the night to clean up an accident. The employee has to take the children to a babysitter who charge double for night time, drive to the shop, clean up the mess, and drive home after picking up the children. Friday the employee will be sent home early to stay at 40 hours. The employee gets no reduction in Friday's child care expense. It costs the employee more to respond to the accident than he receives in wages. This type of situation only affects a very small number of people who get called out, but those are the ones getting the lower salaries. This is one reason for the high turnover rate in the maintenance department. He said supervisors feel they will get a poor performance report if they allow overtime. He asked that the way overtime is figured be changed in this situation.

Patty Hanson, of the Department of Juvenile Corrections, spoke. She said the State's insurance prohibits payment for the treatment of obesity. She said obesity is a very real and deadly disease. Those who are overweight are subject to abuse and ridicule. Medicare and Medicaid recognize obesity as a disease and allow treatment. She asked that the State agree to fund two or three obesity surgeries to see if it is successful at lowering obesity-related health care costs. In questioning, she agreed there is a risk with any surgery, but for her she felt the benefits would outweigh the risks.

Leanne Lundquist, of Health & Welfare, spoke. She is a registered nurse with the Medicaid program. She took a 10% wage cut in 2002 when she went to work for H & W. Last year she got a raise which brought her to the 2002 level before she came to work for H & W.

She knows of several who received no raise. Recruitment and turnover is a problem. Management has not been treating people properly. Of the 15 nurses who have left recently, only one left because of wages. Six left because of the way they were treated by management. She closed with "there are some things more important than money, respect is one of them."

Dick Powell, of the Idaho Transportation Department, spoke. He is a Maintenance Manager for District 3 which is the 10 southwest counties. In Cascade, three people turned down a job offer because the cost of living was too high compared to the wages. He asked that some key positions in the Hay System be re-evaluated or re-factored.

Sherry Mattox, age 55, who has worked for Health & Welfare for 27 years, spoke. She is in Information Technology. She helped design the Idaho Child Support Enforcement system, and has received a number of awards. However, she has not received a raise since July, 2001. She received good performance reports, but she did not receive a raise this year. The following sentence was in a letter she received from her boss: "Other factors taken into account were expectations of exceptional future performance, exceptional productivity, effectiveness, reliability, teamwork, dedication to continuous quality improvement." See Attachment 9) She is not even at the midpoint of her range. When she asked about the letter, she was told that Health and Welfare didn't understand why she wasn't happy with their honesty. She asked how they could assume what she would be doing in the future. She was told to look for another job if she was unhappy. Everyone in her unit who did not receive a raise is over 50 years old.

She sent an E-mail to the public information officer. Two other people doing the same job got nearly a 5% raise and now they are making more than she is. Both have worked less than 11 years.

Since she helped create the child support system, she finds this situation is demoralizing and very unfair. She said many who have been treated the same way are afraid to speak out. This kind of pay distribution does not speak well for the state. As an older employee, she feels she is not valued.

When questioned, she said that the Department knows she is close to retirement (20 months) so they have her "over a barrel." If she had another 15 years to work, she would go somewhere she was appreciated.

When questioned about possible retaliation, she said she had taken a day of vacation to appear before the Committee and did not tell her boss. She said there were too many good people who work hard and are dedicated, but did not get raises. She said people are afraid to speak up because grudges are held. She decided with her 20 months left, she had to speak out. If it doesn't benefit her, it may help others to follow. She has seen a change in direction and overall attitude the last four to five years. The policy is "like it, or there's the door."

Rep. Bolz said he had heard a similar story from someone else. Ms. Mattox said she couldn't speak for other departments, but she thinks it is an over-all trend. The younger people are being kept at the expense of the older, more experienced people.

Rep. Garrett thanked Ms. Mattox for publically coming forward with this information. She said she has heard from others that upper management told supervisors to give younger employees the raises to retain them. She said she talked to Health and Welfare and commented that this smacked of age discrimination. This is not pay for performance.

Co-Chairman Andreason commented that we have a definite philosophical question that needs to be looked at.

In answer to questions about going through the problem solving and grievance process, Ms. Mattox did go to her supervisor and was told nothing would change if she made a formal complaint. She knew that going through the grievance process labels you—you are no longer a "team player" and an attitude follows you. She felt it would be too overwhelming a battle. She chose to use this avenue.

Several Committee members inquired if we could get a copy of the directive put out by Karl Kurtz, Director of Health and Welfare.

Gerald Fleishman, an engineer with the Idaho Energy Division, spoke. He is a member of SEIU. He said the State is falling behind in paying engineers. Some engineers go into management, but then they are not working as engineers any more. When his wife lost her job, he began to notice how much less engineers are paid by the State than elsewhere. A co-worker went to the federal government because of the salary pay schedule with its increases. He said

it will take the best people we can get to help solve the State's problems.

People are leaving. Most State workers are creative people. He works for the Department of Water Resources. They have complicated problems that require very creative thinking.

Andrew Hanhardt, of SEIU 687 (Service Employees of Idaho Union), spoke. He said they hear about these problems every day. He offered to provide any information the Committee needs, especially in regard to the problems at the Department of Health and Welfare.

Requests for information were made from various Committee members.

1) By agency, what is the cost of hiring temporary workers to fill critical vacancies. What are the costs for training new employees by agency? (This was directed to Ann Heileman)

2) What are the ages of the people who received letters similar to the one Ms. Mattox received?

3) Was any long-time employee laid off just before retirement.

Ann Heileman, Director of the Division of Human Resources, said she used to be the HR person at Health and Welfare and her heart was broken by this testimony.

The next meeting will be at the call of the Chair

The meeting was adjourned at 6:04 p.m.

Representative Robert Schaefer
Vice Chairman

Senator John Andreason
Vice Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 13, 2005

TIME: 1:40

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representatives Crow, Trail

GUESTS: See Attachment 1

RS 14526c1 **Dwight Johnson** of the Department of Commerce and Labor, presented **RS 14526c1**. He said this RS is the product of two years' work by a committee that included the stake holders from management and labor. Chairman Schaefer, Reps. McKague, Lake, and Pasley-Stuart also served on the committee.

MOTION: **Rep. Lake moved to introduce RS 14526c1 to print. By voice vote the motion passed.**

RS 14504c1 **Dwight Johnson** presented **RS14504c1**. Last year legislation was passed to stop SUTA dumping—a method companies use to cheat on the unemployment insurance they pay. The US Congress has since passed a law, and we need to make some changes in our law to match the federal law.

MOTION: **Rep. Bradford moved to introduce RS 14504c1 to print. By voice vote the motion passed.**

RS 14505 **Dwight Johnson** presented **RS 14505**. This bill adds one at-large member to the Economic Advisory Council, as well as cleaning up the language for other advisory councils and makes sure all the language is consistent and in compliance with the law

MOTION **Rep. Garrett moved to introduce RS 14505 to print. By voice vote the motion passed**

Jennifer Stemple from Payette was introduced as our page.

ADJOURN: The meeting was adjourned at 1:52

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 17, 2005

TIME: 1:35 p.m.

PLACE: Gold Room

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

GUESTS: See Attachment 1

Roger Madsen, Director of the Department of Commerce and Labor, made a few opening remarks. He thanked the Committee for taking up this very important issue so close to the beginning of session. He said this issue touches every person in the state. He said he was sorry to come asking for benefits cuts and a tax increase, but it was the only solution the Unemployment Insurance (UI) Study Committee could reach. He said he is thankful to be a state employee and proud of his people. He presented a yearly report of his department. (See Attachment 2)

HB 02 **Dwight Johnson**, of the Commerce and Labor, presented **HB 02**. He said that SUTA stands for "State Unemployment Tax Act." (See Attachment 3.) The Unemployment tax rate for a business depends upon the number of former employees who have filed claims for payments. A new company gets a standard rating for three years. Some companies with bad rates have cheated by forming a new company and then transferring their workers to this new company with a better rate. Idaho passed a law last year prohibiting this practice. Then the US Congress passed an even stricter law. This brings Idaho law into compliance with the federal law.

MOTION **Rep. Pasley-Stuart moved to send HB 02 to the floor with a do pass. By voice vote the motion passed. Rep. Kemp will carry the bill.**

HB 03 **Dwight Johnson** explained that **HB 03** is a house-keeping bill for the Idaho Travel Council, the Economic Advisory Council and the Workforce Development Council. The bill adds one at-large member to the Economic Advisory Council, making the membership seven.

MOTION **Rep. Ringo moved to send HB 03 to the floor with a do pass. By voice vote the motion passed. Rep. Mathews will carry the bill.**

HB 04 **Dwight Johnson** presented **HB 04** and explained each Representative had received a packet tailored to the counties in their district. He explained that this is omnibus legislation. The Unemployment Insurance Trust Fund is a safety net to support Idaho's labor force. It is an economic stabilizer.

In 1984 there was a deep recession in Idaho and the fund almost went broke. Idaho ended up with the highest UI benefits in the country.

The Legislature froze the UI rate for a three-year period ending January 1, 2005. The fund had a surplus until 2001 with the recession and the dramatic increase in pay-outs. It is important to keep a stable and solvent trust fund. Eight states have had their funds go insolvent and two more are in serious trouble. When a fund goes insolvent, money has to be borrowed from the federal government with interest and severe penalties if the money is not paid back in two years. Idaho needs to do something about its UI (Unemployment Insurance) Fund now.

In 2002, Director Madsen appointed an external UI Study Committee of 17 members. Chairman Schaefer, and Reps. Lake and Pasley-Stuart served on the committee. Representation from labor and business was also included. This legislation is the consensus agreement of the UI Study Committee.

Idaho has traditionally had a higher benefit than other states, and we have had a large number of seasonal employees. Idaho ranks 12th highest in the nation in replacement rate. The reciprocity rate is 15th highest in the nation.

Although the rate has not moved during the last three years, individual businesses have seen their rates change according to the claims made against their company. If the law is not changed, a 113% increase is possible for employers. There is also a question as to how much money it is prudent to have in the fund. If the law is not changed over the next six years, the fund will increase \$100 million.

The proposed lowering of the adequacy measure would mean there would be \$200 million balance. The bill proposes a new tax collection method that would be more responsive and accurate. Since Idaho is moving away from seasonal employment and becoming more diverse, the Department feels this is reasonable.

Rather than a set amount for the Fund, a formula is set up. The larger the Idaho economy, the greater the minimum requirement for the fund. The Legislature can change the formula and not have to bother changing all the numbers for each category as has happened in the past.

If there is an increase or decrease, all employers will find their rates changed by the same rate. This change will be phased in over 3 years. With this increase, comes a modest reduction in benefits.

The MWBA (Maximum Weekly Benefit Amount) is set as a percentage of the Average Weekly Wage (AWW). This bill links the tax rate to the AWW. As the rate goes up, the benefits decline from 60% of the AWW to 57%.

There are changes made in qualifying for Unemployment Insurance claims. After 10 weeks, one requalified every two weeks, now a claimant will have to qualify every week.

Other changes are also made. If an employee quits, is discharged for cause, or refuses to work, they have to earn 14, rather than 12 times the weekly benefit to qualify for benefits. They are going to adopt the computer system Maryland is now using to verify whether or not a person is actually seeking work. (The law requires they must be available, able, and seeking work.) They have a US Department of Labor grant to upgrade their computers to track this on line.

If this law is not passed, employers will face a drastic increase in unemployment tax. Also, this bill makes it easier to collect money from delinquent accounts. Changes are made in the casual labor law to match the federal law.

They have seen an increase in fraudulent requests for benefits. Collecting money paid out due to fraud is difficult. They are going to

increase the penalties for fraud. They will also be asking the Legislature for money for computer upgrades this session.

In response to the top three causes of fraud, **Don Arnold**, Bureau Chief of Fraud Prevention, said the top reasons are: failing to look for work while drawing benefits, failing to accurately report their weekly earnings while on benefits, failing to report a return to work, and failing to disclose important information that affects eligibility. They have formed a task force on prevention and are actively looking at additional efforts to prevent fraud. They are working more with the media to inform people and prosecuting fraud claimants. This legislation will help prevent fraud.

Teresa Molitor, of IACI (Idaho Association of Commerce and Industry), spoke in favor of the bill. IACI worked on the UI Study Committee. They are concerned about the fraud issue and commended the Department of Commerce and Labor for their part in reducing fraud and waste. They have worked with the Department to help employers understand the appeals process. They appreciate the trigger mechanism on taxes and benefits, and the give on both sides.

Suzanne Schaefer, representing the National Federation of Independent Business (NFIB), spoke in favor of the bill. Her organization consists of predominantly small businesses with less than 10 employees. UI is the biggest single tax small businesses pay. Although none of her members wants an increase in the payroll taxes, they approve of tying the benefits with a tax increase.

At the request of the Committee, Mr. Johnson and **Carol Brassey**, Deputy Attorney General with the Department of Commerce and Labor, "walked through" the bill, giving a summary of each section.

MOTION **Rep. Lake moved to send HB 04 to the floor with a do pass. By voice vote the motion passed. Reps. Lake and Pasley-Stuart will carry the bill.**

MOTION: **Rep. Pasley-Stuart moved to approve the minutes of January 13, 2005. By voice vote the motion passed.**

ADJOURN: The meeting was adjourned at 2:55 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 19, 2005

TIME: 1:32

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representative Crow

GUESTS: See Attachment

09-0130-0401 Rules of the Benefits Bureau. **Dwight Johnson**, of the Department of Commerce and Labor, presented **Rule 09-0130-0401**. He said the Department has been automating most of its services. Claimants now file for Unemployment Insurance (UI) benefits over the Intranet and employers can pay their UI taxes online as well. This rule change provides that electronic signatures, through the use of a Personal Identification Number (PIN) have the full force of law like manual signatures for the UI program.

09-0130-0402 Rules of the Benefits Bureau. Dwight Johnson, of the Department of Commerce and Labor, presented **Rule 09-0130-0402**. He said this rule change is made to eliminate the confusion of when to report holiday pay when a claimant is laid-off in a week in which a holiday occurs. This change requires that holiday pay be reported, for UI benefit purposes, in the week it occurs, so UI benefits will be offset by the worker's holiday pay. Employers have requested this rule because they feel they are currently paying both the holiday pay and the full UI benefit amount for that week.

09-0135-0401 Rules of the Benefits Bureau. Dwight Johnson, of the Department of Commerce and Labor, presented **Rule 09-0135-0401**. This rule makes in the way the Department handles Professional Employer Organizations called PEOs. PEOs are service organizations that contract with businesses to handle many of their HR functions, including the payment of Unemployment Insurance (UI) taxes.

Currently PEOs have three options in handling the UI "experience rating" of their business clients. It will now be limited to two

1) They can transfer the client's workers and the client's experience rating to their organization and have it as part of the PEO's workers and their overall experience rating.

2) They can report the client's workers separately and pay the client's UI tax rates based on that separate experience rating.

If the PEO does not clarify which of these two options they prefer in a timely manner, then they will automatically have their client's experience rating reported separately.

These changes are based on the Department's efforts to eliminate

SUTA dumping and to eliminate a heavy administrative burden for their staff.

09-0135-0402

Idaho Gem Community Implementation Grant Program. Dwight Johnson presented **09-0135-0402**. The Gem Block Grant Program is part of the Governor's Rural Initiative. The Rural Initiative has three elements: 1) funding for full-time Economic Development professionals in the most rural parts of the state; 2) Rural Community Block Grants of up to \$500,000 to pay for infrastructure improvements necessary for economic development; and 3) Planning grants of up to \$50,000 for rural communities to assist them with economic development efforts.

This rule will change one of the requirements for Number Three. Under "Eligible Applicants" it would eliminate the current requirement in the planning grant program that the rural community be an "active certified Gem Community" to qualify for these grants. The Department's Gem Community program is an excellent technical assistance tool that they have used effectively for years to assist rural communities throughout Idaho. However, they want to make this grant program as flexible and as accessible as possible for rural communities. Their experience over the last couple of years has shown that the "active certified Gem Community" requirement has caused some barriers. Thus, they are eliminating this requirement and changing the name of the grant program to just "Gem Grant Program," rather than "Gem Community Grant" program.

There are also a lot of technical changes to eliminate obsolete language and to make the rule more understandable and readable.

In response to questions, Mr. Johnson said that for these smaller awards, the Director does make the decision. Larger grants, of up to \$500,000 are reviewed and approved by the Economic Advisory Council. These smaller grants are reported to the Council, however.

In response to questions about the elimination of the appeals process, **Jerry Miller**, Administrator in the Department, said that this change was recommended by legal counsel. In response to further questions, he said only two groups have been turned down, but the Department obtained funding for these two requests through other sources.

As to what constitutes a rural community, Mr. Miller said the requirement is a population of 10,000 or less. The Director can waive this rule if the permanent population is 10,000 or less. Under this situation, Rexburg, Moscow, and Mountain Home qualify as rural communities.

09-0204-0401

Rules of the Eastern Idaho Aquifer Mitigation Grant Program. Dwight Johnson, said that these rules are being discontinued as the program was only funded for one year, so the rules are no longer needed.

MOTION

Rep. Lake moved to approve the Rules 09-0130-0401, 09-0130-0402, 09-0135-0401, 09-0135-0402, 09-0204-0401, and 09-01210-0401.

Tom Limbaugh, Director of the Industrial Commission started with a history of the Commission. In 1919 the Industrial Accident Board was formed and given the authority to "render employees and their places of work safe". This covered everything from general machinery to electrical safety, including gates on freight elevators.

In 1971, OSHA was established and today covers all private sectors safety except elevators, and boiler and pressure vessels.

Currently a 2 ½% premium tax is paid by Idaho employers to fund the Commission. The Division of Building Safety acts as an agent for the Industrial Commission which provides the funding for the Industrial Safety Bureau of the Division of Building Safety. This Bureau is responsible for safety inspections of all school buildings, political subdivisions safety inspections upon request, the holder of boiler & pressure vessel inspection certificates, the logging safety-training program and the elevator inspection program (which is now self-funded.)

The National Board of Boiler and Pressure Vessel Safety was also formed in 1919. They make the codes that deal with the manufacture, maintenance, and repair of boilers. Idaho is only one of three states that does not have a Chief Boiler Inspector. Currently they pay \$12,000 for a set of codes. If they appoint a Chief Boiler Inspector, he can join the National Board at no expense, and Idaho will receive the code books for free.

In response to a question, Mr. Limbaugh explained that insurance companies require and pay for the inspections that use in-state and out-of-state individuals. Establishing a Chief Boiler Inspector position for the state will give Idaho a voice on the National Board, a say in the codes, and save the state \$12,000.

17-0602-0401

Mr. Limbaugh presented **17-0602-0401** which covers Boiler and Pressure Vessel Safety Rules, and said this establishes a Chief Boiler Inspector for the State of Idaho. There is a person already doing the job, but this rule gives him the necessary title. Any travel expenses dealing with the National Board will be paid by the National Board. Unless Idaho would decide to have their own inspectors, there will not be any increase in the number of employees. At this point in time, the insurance companies are handling the inspections.

17-0701-0401

Mr. Limbaugh presented **17-0701-0401**, which deal with Safety Rules for Elevators, Escalators, and Moving Walks. Now that the authority for making these rules is in statute and is given to the Department of Building Safety, they will be making the rules for this area. (Their rules will be heard in the House Business Committee.) These rules are being repealed so there isn't a double authority.

MOTION:

Rep. Bolz moved to approve Rules 17-0602-0401 and 17-0701-0401. By voice vote the motion passed.

ADJOURN:

After announcements, the meeting was adjourned at 2:15 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** January 27, 2005
- TIME:** 1:33
- PLACE:** Room 416
- MEMBERS:** Chairman Schaefer, Representatives Lake, Trail, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart
- ABSENT/
EXCUSED:** Representatives McKague, Crow,
- GUESTS:** See Attached Sheet
- RS 14399** Rayola Jacobsen, Bureau Chief of Occupational Licenses presented **RS14399**. She said this allows funeral directors, if they have been licensed for 5 years in another state, to pay the fees, take a test, and get an Idaho License, just as morticians currently can.
- MOTION** **Rep. Skippen moved to introduce RS 14399. By voice vote the motion passed.**
- RS 14395** **Mindy Montgomery**, Director of the Industrial Commission, presented **RS 14395**. She said that Workers' Compensation Law started in 1917 in Idaho. Generally, all employers are required to provide insurance coverage for their employees. However, certain types of employment were exempted. One exemption, still on the books, is "Not for Pecuniary Gain". Only Idaho still retains this exemption.
- Until recently, the Idaho Supreme Court consistently held that this exemption had nothing to do with profit, in fact they said it had nothing to do with money.
- In 2003, the Idaho Supreme Court decided to review and revise their long-standing narrow definition of "pecuniary gain." Now, any business whose employees are not engaged in providing "services" for which the employer is paid an "equivalent" compensation may claim they are exempt from the requirements of the workers' compensation law. Many not-for-profit businesses do not receive an "equivalent" compensation for their services. They are often supported solely by donations and grants. This could leave a number of Idaho workers without coverage.
- Blair Jaynes**, Deputy Attorney General, gave some history of the case. The Bible Missionary Church of Kuna, Inc., had one employee and had a workers' compensation policy that was cancelled for non-payment of premium. When the church was brought into court to force them to get a policy, they appealed. The Idaho Supreme Court changed their long-standing definition. The problem is that this case has now opened the door to any small business or church that receives donations and grants.
- MOTION** **Rep Ringo moved to introduce RS 14395. By voice vote the motion passed.**
- RS 14527** **Dwight Johnson**, of the Department of Commerce and Labor,

presented **RS 14527**. He said that RS 14527 is companion legislation to HB 4. This bill appropriates money from federal resources to upgrade their computers. These upgrades will allow employers to monitor their former employees' unemployment insurance claims and will likely reduce benefit payments which will increase the solvency of Idaho's Unemployment Insurance Trust Fund. The upgrade will also reduce the Department's administrative expenses by improving access to stored data. This bill also allows the charging of interest on overpayments and penalties on overpayments due to fraud.

In questioning, Mr. Johnson explained that these funds are currently in their control. When balances in account mandated by the Federal Unemployment Tax Act exceed the statutory ceiling, the excess is distributed to individual states. Under the federal Reed Act, these funds can be used for computer upgrades.

This bill allows the transfer of \$890,000 from the \$25 million trust fund to do this upgrade. Periodically, they ask for funds from this account. Two years ago they made such a request. This request has no effect on the general funds.

MOTION

Rep. Pasley-Stuart moved to introduce RS 14527. By voice vote the motion passed.

Tom Limbaugh, Director of the Industrial Commission, presented. The functions of the Commission are to decide workers' compensation cases and unemployment appeals, approve settlement agreements for workers' compensation benefits, mediate workers' compensation disputes, regulate employer's insurance coverage, provide no-cost return to work services and administer benefits to innocent crime victims.

In 2004, 42,352 accidents were reported with 35 fatalities. There were 6,599 compensable time-loss cases, and \$173.2 million was paid on time-loss cases--the split was almost 50/50 for medical and compensation.

The number of reported accidents has decreased every year since FY02. Fatalities dropped from FY02 (50) and were the same for FY03 and FY04 (36). Compensable time-loss cases have also decreased since FY02. However as medical costs rise, the medical part of time-loss benefits increases.

They have experienced a 13% increase in cases and have added two compliance investigators. These investigators are spread throughout the state.

Under their Benefit Administration, they review and enter first reports of injury forms, audit insurance companies for compliance with Idaho Code, review lump sum settlements agreements between employers and employees, and offer a workers' compensation certification program to industry professionals.

Under their Adjudication duties, they decide disputed workers' compensation cases through hearings, mediations, and case settlements. They also provide appellate review of unemployment decisions by the Idaho Department of Commerce and Labor, and resolve medical fee disputes.

They do not do vocational rehabilitation, but do rehabilitation for injured workers. Their goal is to reduce time-loss and control costs, restore workers' wages, assist injured workers in obtaining new jobs if necessary, and assist with communication between all parties. They received 2528 referrals from insurance companies, employers, attorneys,

medical providers and injured workers in 2004.

The Crime Victims Compensation Program was established in 1986 to provide financial assistance to innocent victims of crime. Seventy-eight percent of these cases involve crimes committed against women and children. The program pays for medical costs, psychological assistance, wage loss, death benefits, funeral expenses and sexual assault exams. The maximum benefit amount is \$25,000. This money comes from fines imposed as a result of felony and misdemeanor convictions within Idaho. A federal grant gives funds from federal penalties. Crime victims' claims are increasing.

The Workers' Compensation Premium Rates are set by the National Council of Compensation Insurers (NCCI) and are based on the loss experienced. This rate is then approved by the Governor. The Industrial Commission is funded by a 2.5% tax on workers' compensation premiums.

Under the Division of Building Safety, they are responsible for logging safety and industrial safety. Under industrial safety, they inspect all public school facilities.

In 2000, an Advisory Committee was established, replacing a previous committee. Its three primary functions are to advise, advocate, and educate. This new committee has a good balance of backgrounds in its members and has been a success as it deals with a variety of issues.

When asked about the high number of disputes, Mr. Limbaugh said sometimes the employer claims the accident didn't happen at work, or the employer is only willing to accept part of the responsibility. He didn't know how Idaho's numbers compare to other states.

In response to a question as to who decided the percentage of disability for a person, Mr. Limbaugh said that the final decision is made by the commission based on fact. For example, statute gives a percentage of disability allowed for the loss of various body parts

ADJOURN: The meeting was adjourned at 2.34 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 31, 2005

TIME: 1:35

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representatives Crow, Trail

GUESTS: See attached sheet

John Barrett, Workers' Comp attorney with Moffatt, Thomas, Barrett, Rock and Fields, spoke on "Workers' Comp 101." Mr. Barrett has practiced workers' comp law for 45 years, normally as defense counsel.

The Industrial Revolution began in Germany in the 1800s and came to the U.S. in the early 1900s. An early study found that 83% of the workers who sustained injuries on the job received no compensation whatsoever. Before Workers' Comp, an employee had to prove the employer was entirely at fault. Smaller employers could be forced into bankruptcy.

Workers' Comp is a no-fault concept. If an employee is on the job and sustains a disease or injury that is in the course of the employment and caused by the employment, the employee receives benefits which are limited by statute. It is the employee's exclusive remedy against the employer. The concept of fault is totally removed from the system, unless the employer or his agents intentionally injure an employee. If an employee is injured as a result of intoxication and drugs, he can only recover medical benefits.

Idaho was the first to adopt a Workers' Compensation law, Hawaii was the last.

The insurance is required of all employers—a person, a partnership, or a corporation—who carry on employment for "pecuniary gain." Public and private employers are required to have it.

There are exemptions to those who must be covered, and Idaho has more exemptions than other any state in the union. (He referred to the situation of H 63 which the Committee sent to print last week.) Other exemptions are household domestic services such as lawn mowing and house cleaning, and casual employment. Casual employment is employment that is at uncertain times, or irregular intervals, only occasionally or incidentally and is not part of the usual trade of the employer. If an employer wishes to cover a casual employee, he must chose to do so and pay the extra workers' comp premium. There is a lot of case law on this particular issue.

Part A of Workers' Comp provides \$300,000 to \$500,000 of liability insurance for the employer, Part B covers civil damages.

Also not covered under Workman's Comp is "piece work." A family member who lives in the household and works in the family business, or family members working for a sole proprietor, but not living in the

household. (This last provision was for agriculture). An election is necessary to cover any of these employees. Others not covered are working members of a partnership, associate real estate workers on commission, volunteer ski patrol workers, and officials of high school athletic contests. There are a total of 12 classes that are exempt.

To cover workers' comp, an employer can get coverage from a private company, or the State Insurance Fund. The employer may also choose to be self-insured. To qualify for that, an employer must have had at least a \$4 million payroll for each of the last three years.

The employer pays all the premiums. There can be no agreement where the employee waives his rights under law. If the employer is controlling the employee, the employee cannot be an "independent contractor" and waive his rights.

The qualifications for being an independent contractor have been decided by much case law. An independent contractor may advertise and work for more than one person, and own his own equipment. The employer is only concerned with the end result. The issue is the right to control. Homeowners who act as a general contractor and hire subcontractors have to be careful. A homeowner needs to be very sure that all of his subcontractors have workers' comp or the general contractor—the homeowner, may be held liable.

With some states, there is reciprocity laws that cover when work is performed across state lines. (California and Wyoming do not have such laws with Idaho.) Mr. Barrett said that coverage in Montana is limited to 60 days. After that, an employer would have to take out Montana Workers' Comp insurance. If the insurance is with a private carrier licensed in both states, this may not be difficult to do. If a person primarily works in Idaho, but is hauling a load of furniture to Oregon, he will be covered under Idaho law. Idaho insurance would cover a person hired in Idaho who traveled all over the country selling.

If, for example, a worker was sent to Washington and the Idaho employer did not take out Washington Workers' Comp insurance; should that worker be injured, the Idaho employer would have to pay the difference in benefits between Washington and Idaho, if Washington's benefits were better.

There is also extraterritorial coverage for Idaho workers sent to Iraq, or other countries outside of the United States and Canada.

There are penalties for failure to obtain insurance, but Mr. Barrett did not feel that they were high enough. The purpose of the penalties is to make sure employers have workers' comp coverage.

If an injury occurs on the job and requires medical treatment or more than one day's loss of work, the injury must be reported within 10 days. The employer must keep payroll records and records of injuries and disease.

The NCCI (National Council of Compensation Insurers) sets the rates for each state based on that state's past history and the Governor must approve before it becomes effective. Last year there was a 5.2% increase. Based on the danger of the job, the risk classification varies, and so does the premium. Office workers have a very low risk, but loggers a high one—with corresponding premiums.

Another part of Workers' Comp is the exclusive liability principle. The employer is immune from civil suit and the injured employee cannot recover damages. If the employee was injured in a willful or unprovoked attack by an employer or his agents, the employee can sue in civil court. If an employee is attacking another worker and is injured, he loses all

benefits.

Temporary employment agencies have special statutes. The temp agency pays the salary and covers its workers. The employer at the job site is immune from civil damages.

There is a subrogation section in the law. An example would be if an employee was driving the employer's vehicle and was hit by a non-employee driver. The employee gets workers' comp, but he can sue the third party for damages. If the injured employee recovers, he must reimburse the employer's cost of \$50,000, minus attorney's fees. This is to encourage employees to sue and make the person at fault pay.

If the job aggravates a previous condition, it isn't covered.

If an employee has a bad knee, is standing, falls and breaks an arm, it isn't covered. If he is up on a ladder and the knee gives way, causing an accident, the injury would be covered.

As to the income benefits, there is temporary total disability benefits, part-time work benefits (to encourage an employee to get back to work), permanent physical impairment which requires an evaluation—the guidelines are set forth in the AMA (American Medical Association) Guide, and permanent disability.

Permanent disability is granted on a case by case basis. The Industrial Commission makes the decision. After 52 weeks, the employee is granted 62% of the average state wage for life. Social Security does not change this, it lasts for life. The amount goes up as the average wage in Idaho goes up.

The question was raised about an employer not hiring a person with a bad knee. Mr. Barrett said that under ADA (Americans with Disabilities Act), a prospective employer cannot inquire into the medical history at the time of the interview. If a person meets the qualifications, they can then be hired conditionally. At this time the employer can ask for medical information. The ADA still protects them. There is a Second Injury Fund to protect employers who hire previously injured people. The funding comes from the premium tax and self-insured employers.

As to death benefits, either a widow or widower receives benefits for 500 weeks, or approximately 10 years. The widow receives 45% of the average state wage, plus an additional 5% per child for up to 3 children. The benefits can be extended until a child reaches 18 years of age.

Mr. Barrett said that repetitive trauma at the workplace is defined as an injury. The occupational diseases list is open ended. He said that things work pretty well.

When farmers were added to the workers' comp law in 1996, the overall liability costs for farmers as a whole did not change. Idaho farm employees are more fully covered than in any other state in the U.S.

Some states have much higher penalties for non-coverage, and this money is used to cover injured workers of a non-insured employer. Mr. Barrett spoke in favor of such an arrangement.

ADJOURN: 3:37

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 9, 2005

TIME: 1:30 p.m.

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

GUESTS: See Attached Sheet

MINUTES **Rep. Bradford moved to approve the minutes of January 27 and January 31. By voice vote the motion passed.**

HB 62 **Rayola Jacobsen**, Bureau Chief, of Occupational Licenses, presented. She said this law amends existing law to include funeral directors in the endorsement requirements. Under this law, a funeral director who has practiced for 5 years in another state, and is in good standing in that state, can apply for an Idaho license. In answer to questions. Ms. Jacobsen said that a mortician embalms the body, while a funeral director provides services and counseling to the family in choosing services and a casket.

MOTION: **Rep. Ringo moved to send HB 62 to the floor with a do pass. By voice vote the motion passed. Rep. Ringo will carry the bill.**

HB 64 **Dwight Johnson**, of the Department of Commerce and Labor, presented. He said this bill is a companion piece of legislation to HB 4. This bill appropriates \$890,000 from the federal monies in the trust fund. Under the Reed Act, excess money in this fund can be used for certain specific projects. This money will be used to upgrade the Department's computers. This will allow them to charge interest on overpayments to claimants, and will enable employers to check on the claims of their former employees. After this disbursement, there will be \$25 million left in the account.

Chairman Schaefer said he had talked to the Co-Chairman of JFAC, and she was fine with our Committee hearing this bill.

In response to questions, Mr. Johnson said the figure of \$890,000 was from their IT staff's estimate based on their research and experience. Their estimates have been accurate in the past. If more money is needed, it will come from their other funds. If they do not need all of this money, any remaining funds will be left in the trust fund.

In response to further questions, Mr. Johnson said **John McAllister**, of their IT department said they would collect \$250,000 a year on interest and such payments with this new system.

MOTION **Rep. Lake moved to send HB 64 to the floor with a do pass. By voice vote the motion passed. Chairman Schaefer will carry the bill.**

HB 64

Mindy Montgomery, Director of the Idaho Industrial Commission, presented. She introduced Blair Jaynes, from the AG's office. Ms. Montgomery said the intent of the Worker's Compensation Law is to provide coverage for state employees who may be injured on the job. Idaho is the only state that has not eliminated the "not for pecuniary gain" clause. This last year, the Idaho Supreme Court reversed their long-held ruling that "not for pecuniary gain" had nothing to do with money.

Chairman commented that this is obscure language and only confuses things. Idaho has a stated policy that laws should be written in plain language.

Blair Jaynes presented an amendment that was suggested yesterday by their advisory committee, which includes Jack Barrett. They now request that the phrase "includes employment only in a trade or occupation which is carried on by the employer for the sake of pecuniary gain and also" should be stricken. (See Attachment 1)

Chairman asked with this suggested change, what would have been the situation with the church that brought about the Idaho Supreme Court case this last year.

Mr. Jaynes said under the suggested change, the church would be considered as being in a business, a religious business. Their employee, the pastor, would be considered an employee, as he was furthering their business. The church would now be required to have Worker's Comp Insurance.

MOTION

Rep. Lake moved to send HB 63 to general orders with committee amendment attached. By voice vote the motion passed. Rep. Lake will carry the bill.

RS 14680

Rep. Tom Trail, presented **RS 14680**. He said he was bringing this RS as a result of a situation with one of his constituents, Mr. Leroy Kelson, owner of Kelson Distributing Company. An employee of Mr. Kelson, Michael Scoville, was involved in an accident while driving his own vehicle. The other driver was found at fault. Farmer's Insurance, who insured the other vehicle, paid for a new truck for Mr. Scoville.

However, Mr. Kelson's Worker's Comp insurance was increased by 50%, or \$2000 a year. Total cost so far is \$10,200 to his company, and Mr. Kelson feels this is not fair. In spite of all his pleas and letters, Mr. Kelson only received sympathy, but no relief has been offered.

Rep. Trail said that IACI (Idaho Association of Commerce and Industry) seemed interested in this legislation, and that this RS is modeled after existing Oregon law.

In the discussion that followed, Rep. Trail agreed that this may appear to be an attempt to circumvent the whole concept of Worker's Comp. He commented that "It does seem that sometimes when Moses brings the Ten Commandments down from Mt. Sinai, that there might be a little slippage on the way." He added that he thought this RS would need a fair hearing.

It was pointed out in Committee that there were some similarities to a law that was rejected last year by the Committee.

The comment was made by several Committee Members that Worker's Comp isn't perfect. There are always problems, but this needs further study as there was a fear that "tinkering with these rules might open a Pandora's Box."

At this point, Rep. Trail asked that the RS be returned to sponsor.

A discussion followed among the Committee members. Various members expressed their strong dismay that the 2% salary increase last year was not disbursed in accordance with the Legislature's instructions. This was particularly egregious in Health and Welfare, where some long time career employees, who had "met expectations," did not receive any raise. One reason given in some of these cases was that the employee did not have "future expectations" of exceptional performance. Mention was made that the Legislature does not believe in the ability of Health and Welfare management to forecast the future for an individual state employee.

It was also pointed out by several members that the job of the Legislature is to set policy. They do not micro-manage.

This issue will be addressed in future meetings. It was agreed that we should strongly advise Health and Welfare to correct the situation with their employees who were short-changed.

Chairman Schaefer closed the meeting with announcements of upcoming Committee agenda items, starting with Congressman Butch Otter on Friday, and the CEC (Change in Employment Compensation) on February 15.

ADJOURN: The meeting was adjourned at 2:37 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 11, 2005

TIME: 1:30 p.m.

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Trail, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representatives, Lake, Crow, Ringo

GUESTS: No guests signed in:

Chairman Schaefer called the meeting to order and introduced **Congressman Butch Otter**.

Congressman Otter started out his comments saying not much was done last year in Congress as the Senate blocked so much legislation.

He said we have a good economy, and a robust job market. He said that if a problem arises, the federal government needs to either turn the states loose and let them work on the problem, or change the environment from the federal level.

Congressman Otter believes that the energy bill is his first priority. It will give the US economy and the defense sector some consistency in the availability of supply. Our technological advancements lead the world, and it needs to continue. Lack of Energy is the one thing that puts us in peril.

When he went to work in the 60's for J.R. Simplot, they produced 360 pounds of potatoes per hour worked. It is now 4000 pounds. The difference is the technology and the speed at which potato products are made. It takes 27,000 BTU (British Thermal Units) to make 1 pound of french fries. It takes 50,000 BTUs to make a ream of paper. Our entire economy—production, intellectual, and informational—depends upon energy. We need to be self-sufficient in energy. HR 6 was passed by the U.S. House in 2003, and 2004, but not by the Senate. The energy bill will come up again in mid March this year. He serves on the Energy Committee in the House. Help is needed with grids, as well as supply. He said the Washington, Oregon, and Idaho representatives have worked hard to make sure the Pacific Northwest wasn't lumped into a national market plan. The Pacific Northwest has the cheapest power in the country. Hydro-power provides 60% of our energy, and we don't have any nuclear or coal. A good percentage of this new bill will be using the expertise of the Idaho National Laboratory, and nuclear fuel.

Alternative fuel sources—wind, geo-thermal and solar—is now number one on the priority list in the bill with 38% of the money. A new type of turbine can make energy from water at 240 degrees, much lower than the previous 350 degrees turbines needed before this.

As to the Endangered Species Act, he said that 13,000 species were listed, but only two have recovered. He said the entire program is dysfunctional and has violated private and states' rights. The way the

program is run, the Department of the Interior proscribes what will happen, it establishes programs, and lastly it punishes those who don't follow the rules. He said there is increasing bi-partisan support for incentives. He believes that in the future, individual states will be given a larger role in recovering species.

Congressman Otter is against CAFTA (Central American Free Trade Agreement). He, along with Congressman Simpson, notified leadership that they were not going to support it. He got the Western Caucus to pretty much agree to do the same thing. Congressman Otter said he is a member of 18 caucus groups. These groups of like-minded individuals are a good place to inform and work for, or against, various legislation. He said they fought CAFTA in general because "this administration, like others, has done a lousy job of managing free trade." The World Trade Court tends to rule against the US, on the basis of sentiment, not facts. He only votes for trade agreements where we have a surplus or there is even trade between countries.

He talked to the Ambassador of the Free Trade Organization. These people learn from books, not from "riding on a combine." They view sugar as a commodity. Congressman Otter said that to Idaho, a sugar crop is needed every two or three years to clean up the ground in order to raise potatoes. It is not a commodity for Idaho.

He said we want fair trade in the world. The US wants to be equally represented throughout the world. The trade deficit is completely out of balance. We need a government on our side that will negotiate true free trade. We used to have an even balance of trade in the 60s.

In answer to questions, Congressman Otter said that the current total on the federal transportation bill will probably be \$284 billion. Earmarks have been removed from the bill, so disbursement is left up to the states. Idaho should receive \$240 million a year for 10 years.

He was asked what does a Legislator get from the personal expense of joining one of the Governor's trade trips. (He commented that before being elected, he sold groceries all over the world.) He said during his term as Lt. Governor, there was a great increase in Idaho products shipped overseas. This was due largely to the excellent quality of Idaho products, whether farm machinery, potato products, or grain. He said the most valuable person on the trade mission is the person producing the product. But because most countries are centrally planned economies (*i.e.*, Japan and Germany), the governments make all the decisions. It takes a political person to talk to their government people. He said one makes money over the long haul, not on the first shipment. When he was Lt. Governor, the people going paid for the entire trip, including his expenses.

As to our water problems, he said the circumstances this year will require farmers to make the most out of the least amount of water. Crops will change. He sees nothing wrong with a trend of reducing the US subsidy of crops, but this needs to be linked to a reduction of federal requirements. This has to be done gradually.

In response to energy questions, he stated that Idaho is in a good position to take advantage of solar power. We raise potatoes here because of the 14 to 16 hours of sunshine. He believes that nuclear power holds great promise for Idaho. No one in the US manufactures solar panels from start to finish. Research and development in solar energy is very expensive. He said farmers do use solar power in remote places.

Questions were raised about the favorable interest rates granted poor

countries. Congressman Otter said that these favorable interest rates should be connected to human rights issues. He gave the example that before 9-11, the World Bank asked the US to forgive millions of dollars owed by Iraq. The money Saddam borrowed was used to build palaces, not feed his people.

He was asked what can we do to help the economy grow in Idaho. He said the first ingredient is a good education system. Idaho needs a well-educated citizenry to compete in the world. We need to create an environment that will attract good corporate citizens to our neighborhood. He said he was not sure that a "whole bunch" needs to be given away.

He said recently he was notified that the Import/Export Bank (XM Bank) was going to loan China \$1.2 billion at a very favorable interest rate to buy manufacturing equipment to "just make logic." However, their prospectus said that should markets change, they would manufacture D-RAM chips. Micron notified the Idaho delegation, and they were supported by the Kempthorne administration. The equipment would have come from Texas and California, so those states were in favor of the agreement. With others working, they were able to get the offer of the loan withdrawn.

Chairman Schaefer commented that Canyon County is a center of drug activity and has a lot of illegal aliens. They need help from the federal government.

Congressman Otter said this issue has supplanted almost every other issue in Congress. Although some companies want their trained workers to stay, he feels that the illegal aliens have shoplifted citizenship. As citizens, we pay for indigent health care, housing, food stamps, and the cost of crime by some of these individuals which is huge in some communities. This week the House passed a bill that requires that states verify that the person is a legal resident or a citizen. Arizona, for example does not require such documents. This new law will allow Arizona to issue a drivers license, but across the front will be stamped "non-resident." Other states will not have to recognize such a license and may require proof of legal residency before issuing a license. This bill was the best compromise, he felt, for this difficult issue.

ADJOURN: 2:25 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE SUBCOMMITTEE STATE EMPLOYEE COMPENSATION

DATE: March 11, 2005

TIME: 8:00 am

PLACE: Room 408

MEMBERS: Chairman Kathie Garrett, Representatives Pasley-Stuart and Kemp

GUESTS: Matt Freeman, LBO; Ann Heilman, Administrator, Department of Human Resources; and Brad Foltman, Administrator, Division of Financial Management

Chairman Garrett called the meeting order at 8:01 am.

The meeting was intended to be a brainstorming session in regards to a request to put together a letter with intent language to JFAC and a letter to House Ways and Means in regards to an interim committee to study CEC issues.

Chairman Garrett stated that JFAC is going to start setting the trailer bill for CEC and there is a very short time frame on this. Whatever this group comes up with, it needs to signed off on by the entire House Commerce and Human Resources Committee.

Matt Freeman said it has not been decided if the raise will be 1% onetime surplus or if it will be ongoing.

Rep Kemp, in her thoughts, came up with two options. One, what are we doing for this year and two, what are we going to do long term. She would like to see the Resolution passed for an interim committee. She sees the letter to JFAC as a this year, short term, item. Her concern is for the long term.

Rep Pasley-Stuart has a narrower focus. She wants to focus on implementation of the money distribution of any amount. Whatever is done must be very clear as we do not want to run into grievances like last year. She would like to include in a letter a recommendation on what we would like to see happen, but does not see that as being very realistic.

Matt Freeman said he is talking to Ways and Means about an interim committee. Addressing JFAC on an interim committee does not mean anything. They do not have input.

Ann Heilman, said that a 1% increase to her nurses aides would mean something in the neighborhood of \$.07 per hour. Some states have done "a 1% or a minimum of". If an employee gets a 1% ongoing raise, they have other costs that come out of it. She would not want to tell agencies something they could not afford.

Chairman Garrett stated that her first priority would be a letter to JFAC in regards to how the committee addresses the state employees benefit package. She would like to see the increase of the employee portion of health insurance be covered so people are not taking less home in their pay check.

Ann Heilman stated the new health insurance program offers a larger number of choices for employees, so this must be taken into consideration on the amount of raise given so they remain balanced.

Matt cautioned the state is now picking up 90% of insurance. He does not want to do anything that might impact that.

Rep Kemp does not have a concern about the benefits package as she feels it is very competitive with the marketplace. She is more concerned about salaries.

Chairman Garrett talked about last year trying very hard to say thank you to the employees for their hard work by the raise that was given. It did not turn out that way and many employees felt like it was a slap in the face. She does not want to see that happen again. She does not see how a 1% raise can reach any goals.

Ann would like the letter to say they support the Governor's 1% ongoing raise.

Rep Pasley-Stuart asked if we wanted to put an amount in the letter or focus on distribution if there is any money available.

Chairman Garrett asked that, as a committee, were we in a position to express our support for the Governor's request for 1%.

Matt talked a little about the history of the CEC.

Chairman Garrett asked this group what they felt was the goal with a 1% increase. **Rep Kemp** thinks it should be more of a thank you. **Rep Pasley-Stuart** would prefer to see everyone get 1% rather than penalize the higher rated employees to accommodate the lower rated one.

Ann felt that after the initial eligibility requirements were met agencies should distribute any additional funds that may be left.

Chairman Garrett stated the agencies will still be able to give bonuses or short term bonuses. Ability for recognition will not be lost.

Rep Kemp asked about the insurance plan and what it might cost to add 5% to employee only coverage, not dependents.

Ann felt this was an issue that should be covered by an interim committee.

Chairman Garrett said there were many philosophical things beyond the scope of this particular group that should be discussed by an interim committee.

Rep Pasley-Stuart would like to see the state pick up the employee's portion of the higher health insurance premiums and a 1% raise.

Chairman Garrett will draft a letter to the full committee outlining this. The second part of the letter to JFAC would be supporting the Governor's recommendation.

Ann stated there were some people at top of pay scale who would not be able to have an increase.

The group felt the letter should incorporate some of the following language from a document put together by Matt.

"When allocating ongoing salary increases, state agency directors and higher education institution executives should give priority to employees in occupational groups with the greatest lag between current wages and labor market average rates."

"The Division of Human Resources shall approve all compensation and distributions plans to ensure they are consistent with the policies contained herein. The Division of Financial Management shall ensure that each agency and higher education institution compensation plan is implemented consistent with their respective appropriation."

The state should use this as a guiding principal.

Matt will contact the Department of Administration to find costs of insurance rates for employees only as compared to costs for employees and dependents.

The letter should include a recommendation for a 1.2% ongoing pay raise with items mentioned above as qualifiers.

Many of the items discussed by this group are items that an interim committee would need to look at. It is late in the session and it was not intended this committee research them.

There being no further business, the meeting was adjourned at 9:12 am.

Representative Kathie Garrett
Chairman

Barbara Allumbaugh
Secretary

MINUTES

**HOUSE COMMERCE AND HUMAN RESOURCES &
SENATE COMMERCE AND HUMAN RESOURCES
MEETING AS THE
CHANGE IN EMPLOYMENT COMPENSATION COMMITTEE**

DATE: February 15, 2005

TIME: 1:34

PLACE: Room 416

MEMBERS: Co-Chairman Schaefer, Co-Chairman Andreason, Representatives McKague, Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart, Senators Coiner, Cameron, Compton, Stegner, Goedde, Broadsword, Werk, Malepeai.

GUESTS: No guests signed in

MINUTES **Rep. Lake moved to accept the minutes of January 7 as printed. By voice vote the motion passed.**

Matt Freeman displayed a spread sheet on the screen. (See Attachment 1 for final version which also shows the motions.) It showed the costs of the various benefits that had been suggested. He said the State is required to pay \$7,024,200 for health insurance and other costs such as worker's comp, and unemployment.

\$485,000 was the increase in health care costs increase for employees unless the State takes action to cover this increase.

\$5,133,400 is the cost of a permanent 1% increase.

\$5,802,800 is the cost of a permanent 1% increase and the cost of replacing the endowment and student fees.

\$5,133,400 is the cost of a temporary 1% increase.

He said one RS was at each member's desk and he had a two more in draft form available should the Committee wish to see them.

MOTION **Rep. Lake moved that the Committee recommend coverage of the employees' additional health insurance costs. He also moved to establish an interim committee to review the following items:**

- 1. Review the distribution of health insurance costs;**
- 2. Review the Hay Plan**
- 3. Review the concept of merit increases for specific occupational groups.**
- 4. Review agency specific human resource issues**
- 5. Review temporary merit increases and their funding sources**
- 6. Review any other human resource management issues. Rep. Mathews seconded the motion. (See draft Attachment 2)**

Rep. Lake then said we need an Interim Committee to discuss the redistribution of health insurance costs, as well as a thorough review of the Hay Plan to make sure it is serving the purpose for which it was adopted. He said a review is needed for the whole concept of merit increases for specific occupational groups, especially those 30% to 40%

below market. He commented that some groups are being paid at or above market, yet they all fit into the Hay Plan. He said there are specific human resource issues in various agencies, and he struggles with the concept of temporary merit increases and doesn't think this is the way to do it.

In the discussion that followed, questions were raised about replacing the endowment and student funds. **Jeff Youtz** said the \$5,802,800 was the actual total recommendation of the Governor. However it is actually in another section of the budget, but it needs to be included here to show the full extent of the costs.

Mr. Youtz said the General Fund CEC covers state agencies and higher education. It includes CEC for administration in the judicial branch. He doesn't know what it would amount to for judicial salaries, but said it would be fairly minor. A 1% increase for public school teachers would cost about \$8.5 million. The CEC decision does not bind, in any way, salaries for public schools employees.

In answer to further questions, Mr. Youtz said that within the higher education budget, a request to help fund the CEC portion of their budget usually comes from funds earmarked for higher education. Because of endowment earning losses, and because of the Governor's policy of not putting any more pressure on student fees, the Governor has asked that the General fund pick up all of these costs, which would be \$664,000 for higher education.

He said the 1% being discussed is 1/4 of 1% of the State budget. He agreed that the 1% raise for teachers would amount to over \$8 million, but this was not part of the discussion of this Committee.

At the request of a Committee member, Matt put the Governor's request on the screen.

**SUBSTITUTE
MOTION**

**Sen. Stegner moved to accept the Governor's recommendation.
Sen. Compton seconded.**

**AMENDED
SUBSTITUTE
MOTION**

**Sen. Andreason moved to pay the employee share of increased health insurance costs, a 1% permanent raise, and a 1% temporary raise contingent on the funds being available—a "surplus eliminator."
Sen. Broadsword seconded. (See draft Attachment 3)**

Sen. Andreason commented that Ann Heilman said last year that the State employees' average wage was 14% below market rate. The 2% raise last year barely made any progress in reducing this gap. He said the State employees have kept the faith and done their jobs with due diligence. It was time to step up and show the Committee's good intent. He went through the details of his proposed RS. He said there was language he felt would make sure that the raises were properly distributed according to merit. It requires the Division of Human Resources to approve all compensation plans to take care of the problem with Health and Welfare.

Sen. Compton asked if he had seen the tentative figures for next year's budget, and asked how the Amended Substitute Motion fit within the rather "bleak picture for next year's budget."

Sen. Andreason said he thought the revenues would be there or he wouldn't have made the motion.

Rep. Lake commented that anyone following the budget knows that when the sales tax rate goes down, the budgets will be tight next year. We need some revenues to carry us over. If the revenues aren't healthy, we are putting ourselves in a possible bind. He said he preferred a good hard look at the whole situation, and then come back next year prepared to make substantial changes.

Sen. Andreason said he didn't think the system was broken, just the way it was being administered. He said we can't fix it without convincing the administrators that they must follow the rules. He said the problem was that the rules weren't specific enough last year.

Chairman Schaefer commented that the language was written sufficiently clear for anyone to follow. The only problem was with Health and Welfare. The majority of everyone else followed those rules.

Sen. Werk complimented the people who are working in the background. He said Rep. Lake's proposal to look at the compensation system had great merit. He expressed a desire to combine some of both motions.

Sen. Andreason commented they had tried to do just that this morning and were unable to come to a consensus.

MOTION

After determining that if we adjourned, the Governor's recommendation would stand by default, **Sen. Stegner moved to adjourn the meeting. Sen Cameron seconded.**

**VOTE ON
MOTION TO
ADJOURN**

Roll call: Voting Aye: Senators. Cameron, Stegner, Goedde, Compton, Rep. Trail. Voting Nay: Senators Andreason, Coiner, Broadsword, Werk, Malepeai; Representatives Schaefer, McKague, Lake, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd, Pasley-Stuart. MOTION FAILED by a vote of 5 to 19.

**VOTE ON
AMENDED
SUBSTITUTE
MOTION**

Roll Call: Voting Aye: Senators Andreason, Coiner, Broadsword, Werk, Malepeai, Representatives Trail, Ringo, Pasley-Stuart. Voting Nay: Senators Cameron, Stegner, Goedde, Compton, Representatives Schaefer, McKague, Lake, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Shepherd. MOTION FAILED by a vote of 8 to 16.

**VOTE ON
SUBSTITUTE
MOTION**

Roll Call: Voting Aye: Senators Andreason, Coiner, Cameron Stegner, Goedde, Compton, Broadsword, Representatives Trail, Garrett, Shepherd. Voting Nay: Senators Werk, Malepeai, Representatives Schaefer, McKague, Lake, Crow, Bradford, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Pasley-Stuart. MOTION FAILED by a vote of 10 to 14.

**VOTE ON
MOTION**

Roll Call: Voting Aye: Senator Cameron, Representatives Schaefer, McKague, Lake, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews. Voting Nay: Senators Andreason, Coiner, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai, Representatives Trail, Ringo, Shepherd, Pasley-Stuart. MOTION FAILED to get a majority in a vote of 12 to 12.

ADJOURN

Sen. Stegner moved to adjourn, Sen. Cameron seconded. By voice vote the motion passed. Meeting was adjourned at 2:39

Representative Robert Schaefer
Vice Chairman

Senator John Andreason
Vice Chairman

Janet Bryant
Secretary

ADDENDUM TO THE MINUTES

**HOUSE COMMERCE AND HUMAN RESOURCES &
SENATE COMMERCE AND HUMAN RESOURCES
MEETING AS THE
CHANGE IN EMPLOYMENT COMPENSATION COMMITTEE**

DATE: February 15, 2005

TIME: 1:34

PLACE: Room 416

MEMBERS: Co-Chairman Schaefer, Co-Chairman Andreason, Representatives McKague, Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart, Senators Coiner, Cameron, Compton, Stegner, Goedde, Broadsword, Werk, Malepeai.

ADDENDUM **Sen. Werk** has requested that the minutes also reflect the fact that he asked for a short break to allow him to confer with his colleagues after the three motions were placed on the floor. This request was denied.

Representative Robert Schaefer
Vice Chairman

Senator John Andreason
Vice Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 17, 2005

TIME: 2:30

PLACE: Dept. Commerce and Labor - Second Floor J R Williams Building

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representatives Crow, Bradford, Anderson

The Committee, along with the Senate Commerce and Human Resources, and the House Business Committees, attended a briefing by Karl Tueller, Deputy Director of the Department of Commerce and Labor and Executive Director of the Office of Science and Technology.

Karl Tueller gave a brief history of the development of the Office of Science and Technology, starting about five years ago. At the request of business and the Department of Commerce, the Governor created an Advisory Council which started the process. (See Attachment 1A)

He then presented a Power Point presentation giving "A Year in Review" for the Office of Science and Technology. (See Attachment 1B) He mentioned the Science and Technology Strategy Update and Action Plan for 2004 (See Attachment 2). Last year's program was run without any new money from the state. INEEL was very generous with the loan of Rachel Hall for a year. He pointed out the importance of science and technology (S & T) to Idaho's economy. S & T provides 23 to 25% of the state's economy, and 1 out of every 10 jobs is S & T connected; and 92% of S & T wages are above the state average wage.

Last June 14 & 15, they sponsored a Signature Event—an Industry Forum. It brought key players from government, industry and academia together to identify core competencies (See Attachment 3) and it provided a forum for networking.

They formed Idaho Techconnect, a statewide organization chartered as an implementing tool for state-wide initiatives in S & T-based economic development. (See Attachment 4)

The SBIR/STTR Initiative Program was developed to increase grants in Idaho. (Small Business Innovation Research - SBIR, and Small Business Technology Transfer-STTR). (See Attachment 5).

A report on "Innovation in Idaho—Concept to Commercialization" made by the Governor's Science and Technology Advisory Council Subcommittee was also in the packet. (See Attachment 6) and the February "Idaho Science & Technology" newsletter which is also on the internet. (See Attachment 7)

Karl said in order to help small companies develop good business plans, they are sponsoring a contest. The first prize will be \$25,000.

Once these plans are developed, there are three venture capital firms in Idaho, and more are expected. There is also the Boise Angel Alliance

(BBA) which helps companies in the development effort. Similar organizations are being developed in other areas of the state.

PERSI also invests a portion of its funds in growing Idaho companies.

Rich Ritter, with TechConnect West, located in Nampa spoke briefly. He said they only focus on technology development, transfer, and commercialization. They work on bringing the private sector, universities and government together. He said that Idaho S & T is growing at a much faster rate than the rest of Idaho's economy. He said now 1 in 8 jobs is related to S & T. He thanked BBWI (Babcock, Battelle, & Wilcox, Idaho) for the \$500,000 they gave to fund TechConnect.

In response to questions, he said the general public doesn't recognize or know, so can't appreciate the funds that private companies have given towards this effort.

He said we are behind, but we are small and can benefit from the mistakes other states have made. Since we are a smaller state, it is easier for us to get together.

ADJOURN: The meeting adjourned at 3:45 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 21, 2005

TIME: 1:31 p.m.

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representative Crow

GUESTS: See Attached Sheet

Chairman Schaefer introduced the new page, **Emily Patchin** from Boise.

Dwight Johnson, of the Department of Commerce and Labor presented the packet of information and introduced the staff members present. He then introduced the Trade Representatives. He commented that Dr. Cao Guoli, Manager, of the Idaho-Shanghai Representative office was unable to come. He mentioned that the two gentlemen that were there were the ones with which they had a long standing relationship. Mr. Yen has 15 years, and Mr. Orellana, 11 years with Idaho trade groups. (See Attachment 1 & 1a)

Armando Orellana, Idaho-Mexico Office Manger spoke. The office is in Guadalajara, Jalisco, Mexico and their job is to assist Idaho exporters in developing sales to Mexico. The office is sponsored by both the Idaho Department of Commerce and Labor, and the Idaho State Department of Agriculture.

He said that last year the Mexican economy grew 5% and they expect the same rate of growth for 2005. There will be elections in 2006, but campaigning is going on heavily now, and this has a great influence on everything.

Mr. Orellana gave some of the highlights of the last year. In August, a high-level delegation of government officials and business leaders visited Idaho from Jalisco. The object was to promote Idaho trade, tourism, and culture. Also in August, members of the Mexican Bean Council and the Mexican Bean Chain System visited Idaho to learn about the state's bean seed industry and to prepare for a test trial of Idaho's seeds in Culiacan, Sinaloa Mexico which is currently under way. He explained that , beans are an important food item in Mexico.

They brought three journalists and three tour operators to Idaho in order to promote Mexican tourism to Idaho.

There were several trips in the fall to encourage the sales of Idaho potatoes, and a reverse trade mission where Mexican buyers of our onions and fresh produce buyers came here.

The Idaho Farm Bureau also visited the Mexican wheat millers, and the Mexican wheat millers visited Idaho. Mr. Orellana felt this series of

visits was a turning point.

In October, Roger Madsen visited Mexico and met high ranking government officials and business leaders.

Mr. Orellana's office also provides technical assistance, one-on-one consultations with companies looking to do business in Mexico, translation and interpretation services, buyer contacts and distributor lists. They have even helped Idaho companies find Mexican suppliers. They also have a three-month internship program with various Idaho universities; both the students and his office have benefitted from this arrangement.

Governor Kempthorne will be going back to Mexico for a week's visit this year. He will again meet with state and government officials there.

In response to a question as to why so many Mexicans are coming to the US to find jobs, many illegally, Mr. Orellana said that even though the Mexican economy is growing, there are social issues. Mexicans come here because they have family here, they are used to coming here to work. Also, 25% of the Mexicans work in agriculture, but only 5% in the US. Mechanization in agriculture is replacing workers in Mexico, and these people do not want the jobs available in the cities, so they come to the US.

In response to further questions, Mr. Orellana said he was unaware of the Lewiston Port being a free trade zone. He said he would look into taking advantage of that.

Eddie Yen, Idaho Asia Office Manager, spoke. He said in Taipei, 21 states have representatives there, but only Idaho brings their representative to the US once a year to meet growers, legislators and government people.

In 2002, Governor Kempthorne visited China and an agreement was signed with the Shanghai district government. One program developed was a joint venture with BSU in which twenty-one high school teachers came to study English for 6 weeks last year. These teachers, who have a lot of influence, went back saying good things about Idaho. He believes this program will continue.

In May of this year, Governor Kempthorne will lead another trade mission to Asia, visiting Tokyo, Seoul, Beijing, Shanghai, and Taipei.

His office worked with Boise Cascade and some smaller companies to develop a landscaping market in China. They participated in three major trade shows. Last year 50 containers were exported into China.

Mr. Yen said that since they are a small office with a limited budget, their strategy is to pick two industries and for two years concentrate on developing markets for Idaho goods in those two industries. After two years, they move on to another two industries.

High tech is a major export from Idaho. It is difficult to get Chinese buyers to Idaho, so last year at the Semi-Con West convention in San Francisco, they sponsored a breakfast with buyers and showcased Idaho high tech products.

They received a special achievement award for the import of peaches, cherries, and apples. They used federal money to bring Asian buyers here. They have had excellent success in exporting the large red table grapes to China. Last year they exported 40,000 cases.

Last year Idaho was able to export the large cherries into China through Hong Kong. Idaho growers are willing to pack the cherries in smaller, family-sized boxes, and this helps sales.

In response to questions, Mr. Yen said that the extent of agricultural

products imported into Asia depends upon the world market. Last year Australian prices for peas and lentils were less, so more was purchased from Australia.

Mr. Yen said that high tech is a unique situation. If the economy stays the same, they expect a stable growth. However he cautioned Idaho to watch for competition from Korea, which has the largest semi-conductor producer in the world. There is a huge demand for cell phones from China and India where the number of phones went from 150 million to 300 million in two years. China can't produce these semiconductors yet. Taiwan semi-conductor producers do special orders. Micron, however, does the commodity type of chip.

Mr. Johnson closed with the comment that 50,000 Idaho jobs are directly tied to exports. This makes the export business very important for good Idaho jobs.

ADJOURN: The meeting was adjourned at 2:42 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 23, 2005

TIME: 1:00 p.m.

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Trail, Crow, Bradford, Garrett, Bolz, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representatives Lake, Skippen, Anderson

GUESTS: (See Attached Sheet)

S 1005 **Alan Winkle**, Executive Director of PERSI, presented **S 1005** and said that this bill incorporates language that was in rule and partly in statute. This is to eliminate any possible confusion. From time to time, benefits provided are changed or enhanced as of a certain date. This bill says that the effective date—whether one qualifies under the old benefits, or the new benefits—is determined by the last date of contribution to the PERSI system. If the last contribution was before the change, the person receives the old benefits.

MOTION: **Rep. Crow moved to send S 1005 to the floor with a do pass. By voice vote the motion passed. Rep. Crow will carry the bill.**

S 1006 Alan Winkle presented **S 1006**. Every year, PERSI hires an outside auditor to do an annual fiscal audit. Recently it came to light that this was not required in code. Since an audit obviously needs to be done, they are putting it into statute with this bill.

Also included are some housekeeping duties. The investment committee is added to those who are indemnified against legal action taken against them due to actions taken within the scope or performance of their duties. Qualified people might not want to serve on the committee if it were to endanger their own finances.

The last change requires an investigation of experience at least every four years. There has not been a uniformity of numbers in each case before this. In practice economic assumptions are reviewed and adopted every two years, and demographic assumptions are reviewed every four years.

MOTION **Rep. Mathews moved to send S 1006 to the floor with a do pass. By voice vote the motion passed. Rep Mathews will carry the bill.**

S 1007 Alan Winkle presented **S 1007**. There has been some confusion as to when county detention officers qualify for police officer status under PERSI, and where dispatchers fit in. This law clarifies some terms.

To qualify for police officer status, a county detention officer must hold POST certification. Reference to city jails was removed as there are no city jails in Idaho. City police officers are in charge of anyone in a holding

facility, until they can be transferred to the county jail.

The term "telephone operator" has been replaced with "dispatcher," but dispatchers do not qualify for police officer status.

Also the terms "paramedic and paramedic trainees" are replaced with Emergency Medical Technicians (EMT). These new terms reflect the current language in Idaho Code. EMTs are not being given police officer status in this bill, just their designations are being updated from paramedic to EMT.

Questions were raised about a particular part-time police officer currently receiving PERSI benefits. Mr. Winkle said this bill wouldn't change anything in that case. The rule is that if a person works half time for more than 5 months, they are in the system. This would not change their category—police officer status or not. Mr. Winkle stated the law currently says one cannot work full time and receive PERSI benefits. There is a bill in the Senate (S 1108) that would change this. Only the employer would be making contributions if this law is passed.

Mr. Winkle said they worked closely with the sheriff's associations and the sheriff in question had attended one of the meetings.

MOTION

Rep. Ringo moved to send S 1007 to the floor with a do pass. By voice vote the motion passed. Rep. Ringo will carry the bill

ADJOURN:

The meeting was adjourned at 1:31 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES

DATE: March 9, 2005

TIME: 1:30 pm

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2) and Pasley-Stuart

**ABSENT/
EXCUSED:**

GUESTS: Dona Van Trease, IPEA; Alan Winkle, Director, PERSI; Vicki Patterson, IPEA; Roger Hales, Attorney; Amanda Brown and Andrew Hanhardt, SEIU, Local 1687; Rayla Jacobsen, Dennis Price and Brandon Ashbaugh, IBOL; Michelle Runyan, Intern; Ann Heilman, Administrator, Dept Human Resources; Matt Freeman, LBO; Judie Wright, Bureau Chief, DFM; Audrey Musgrave, Bureau Chief, SCO; Sandee Hitesman, IBOL; and Bob Oberholzer, Dept Human Resources

Chairman Schaefer called the meeting to order at 2:30 pm

MINUTES: **Rep Kemp** moved that the minutes of February 23, 2005 be approved as written.

ON A VOICE VOTE THE MOTION CARRIED.

Rep Bradford moved that the minutes of March 1, 2005 be approved as written.

ON A VOICE VOTE THE MOTION CARRIED.

H 138 **Roger Hales, Attorney representing the Idaho Bureau of Occupational Licenses** previously presented this legislation at the March 1, 2005 meeting and the bill was held until today's meeting. This legislation is to change the compensation schedule for the Board of Architectural Examiners. When PERSI was activated, members of the Board of Architectural Examiners were eligible at that time. He stated that there are a number of boards that are presently enrolled in PERSI, such as Morticians, Podiatrists, Optometrists, etc. There are 155 boards and commissions eligible to participate.

MOTION: **Rep Lake** moved that **H 138 be sent to the floor with a DO PASS recommendation.**

Rep Kemp questioned the fiscal note on the Statement of Purpose and asked if it was \$550 per year for each employee or \$550 per year for all employees. Mr Hales stated it was for all employees.

Rep Ringo asked why some boards were not part of PERSI.

Alan Winkle, Director of PERSI, said it might not be worth it to some of the boards as they were very small. 96 boards left PERSI and are now wanting to come back. Once they leave PERSI they do have the option of coming back.

VOTE:

ON A VOICE VOTE THE MOTION TO SEND TO THE FLOOR CARRIED.

Ann Heilman, Administrator, Department of Human Resources, was before the committee as a followup to the January 7, 2005 meeting in regards to state employee pay issues. She stated the CEC, (Change in Employment Compensation), talks about more than employee pay raise issues.

She was back to discuss some issues expressed by this committee in regards to grievances and contract resolution, the Hay plan and an interim committee.

Chairman Schafer stated he had drafted a Concurrent Resolution calling for an interim committee to study public employees pay and benefits. Leadership has not had it printed yet. He suggested committee members might discuss this with leadership.

Rep Garrett asked if performance evaluations were on Ann's list. She felt if not, they should be. In a study that was done 49% of the people wanted to see more levels. She felt it would be nice if the system was in place to let employees know whether they had met requirements for merit pay.

Ms Heilman said the system is not broken, it is simply not working and there is not enough money to fix it. She said they know employees compare notes on who gets a bonus and who gets merit increases. Her department knows the system is not working fairly and they are trying to make things fair with no money. As far as cost savings bonuses, employees are losing on the short term commendables.

Chairman Schafer said it was too late in the year to get something started for this year.

Rep Pasley-Stuart wanted Ann to know she was pleased with the work her employees had done in providing information. She had a concern about "future" expectations and performance and wanted to know how this could possibly be measured.

Ms Heilman said they have now automated the system so that when an employee is due for a raise the computer will check to see if a performance evaluation has been done. They will have every agency submit a new compensation plan and will not accept "subjective" expectations for employees.

Rep Matthews was concerned about comments made by employees 50-55 or older who were leaned on to leave or simply asked to leave. He thinks if there is an interim committee these things need to be looked at.

Chairman Schaefer passed around a draft letter that Rep Pasley-Stuart had been asked to write in regards to the intent language of the 2004 Idaho

Legislature and the House and Senate Commerce and Human Resources Committees regarding the disbursement of merit pay to state employees; more specifically to employees of Health and Welfare. He asked the members to look at it and see if they concurred.

Rep Garrett asked if this committee needed to issue some intent language or is the system corrected enough to see that the people get the merit increases they are entitled to. She further asked that if JFAC could change what this committee decided, plus the Governor's recommendation, why is the CEC needed.

Ms Heilman said a 1% increase is so little money to try and work with it is nothing more than a band aid. If raises are made across the board they are making inequities more inequitable.

Matt Freeman, LBO, was asked that if this committee has made known some ideas on how raises are to be implemented, does he think this committee needs to put together some intent language. He said money will be handled as a separate item on the books. He does not know if it will be ongoing.

Rep Pasley-Stuart wanted to make very sure that whatever intent language we come up with will be very clear.

Rep Garrett suggested that this committee could issue some intent language to JFAC. We could also write to the House Ways and Means Committee in regards to an interim committee.

Chairman Schaefer appointed **Rep Garrett, Rep Kemp and Rep Pasley-Stuart** to work with **Matt Freeman** and come up with some specifics to put in a letter. With the Governor's recommendation, JFAC determines whether the funding is available.

Rep Ringo wanted to know if it would be appropriate to run this letter before the Senate Committee. It was felt that this was a letter from this House committee and would not be necessary to run it past the Senate.

Chairman Schaefer asked the committee if they would agree to have the committee sign off on the letter Rep Pasley-Stuart had drafted.

Rep Lake suggested some changes in the letter. He wanted it directed to Karl Kurtz, Director of Health and Welfare, and suggested the terminology "We want these necessary funds to be found and immediately disbursed" should be changed to read "We recommend these funds be found and disbursed". **Rep Pasley-Stuart** will make these changes to the letter and get it written.

Ms Heilman said performance levels will be addressed. CEC will draft some legislation prior to the next session to address cost savings bonuses, or at least have it discussed with an interim committee if one is appointed.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:50 pm.

Representative Robert Schaefer
Chairman

Barbara Allumbaugh
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE SUBCOMMITTEE STATE EMPLOYEE COMPENSATION

DATE: March 11, 2005

TIME: 8:00 am

PLACE: Room 408

MEMBERS: Chairman Kathie Garrett, Representatives Pasley-Stuart and Kemp

GUESTS: Matt Freeman, LBO; Ann Heilman, Administrator, Department of Human Resources; and Brad Foltman, Administrator, Division of Financial Management

Chairman Garrett called the meeting order at 8:01 am.

The meeting was intended to be a brainstorming session in regards to a request to put together a letter with intent language to JFAC and a letter to House Ways and Means in regards to an interim committee to study CEC issues.

Chairman Garrett stated that JFAC is going to start setting the trailer bill for CEC and there is a very short time frame on this. Whatever this group comes up with, it needs to signed off on by the entire House Commerce and Human Resources Committee.

Matt Freeman said it has not been decided if the raise will be 1% onetime surplus or if it will be ongoing.

Rep Kemp, in her thoughts, came up with two options. One, what are we doing for this year and two, what are we going to do long term. She would like to see the Resolution passed for an interim committee. She sees the letter to JFAC as a this year, short term, item. Her concern is for the long term.

Rep Pasley-Stuart has a narrower focus. She wants to focus on implementation of the money distribution of any amount. Whatever is done must be very clear as we do not want to run into grievances like last year. She would like to include in a letter a recommendation on what we would like to see happen, but does not see that as being very realistic.

Matt Freeman said he is talking to Ways and Means about an interim committee. Addressing JFAC on an interim committee does not mean anything. They do not have input.

Ann Heilman, said that a 1% increase to her nurses aides would mean something in the neighborhood of \$.07 per hour. Some states have done "a 1% or a minimum of". If an employee gets a 1% ongoing raise, they have other costs that come out of it. She would not want to tell agencies something they could not afford.

Chairman Garrett stated that her first priority would be a letter to JFAC in regards to how the committee addresses the state employees benefit package. She would like to see the increase of the employee portion of health insurance be covered so people are not taking less home in their pay check.

Ann Heilman stated the new health insurance program offers a larger number of choices for employees, so this must be taken into consideration on the amount of raise given so they remain balanced.

Matt cautioned the state is now picking up 90% of insurance. He does not want to do anything that might impact that.

Rep Kemp does not have a concern about the benefits package as she feels it is very competitive with the marketplace. She is more concerned about salaries.

Chairman Garrett talked about last year trying very hard to say thank you to the employees for their hard work by the raise that was given. It did not turn out that way and many employees felt like it was a slap in the face. She does not want to see that happen again. She does not see how a 1% raise can reach any goals.

Ann would like the letter to say they support the Governor's 1% ongoing raise.

Rep Pasley-Stuart asked if we wanted to put an amount in the letter or focus on distribution if there is any money available.

Chairman Garrett asked that, as a committee, were we in a position to express our support for the Governor's request for 1%.

Matt talked a little about the history of the CEC.

Chairman Garrett asked this group what they felt was the goal with a 1% increase. **Rep Kemp** thinks it should be more of a thank you. **Rep Pasley-Stuart** would prefer to see everyone get 1% rather than penalize the higher rated employees to accommodate the lower rated one.

Ann felt that after the initial eligibility requirements were met agencies should distribute any additional funds that may be left.

Chairman Garrett stated the agencies will still be able to give bonuses or short term bonuses. Ability for recognition will not be lost.

Rep Kemp asked about the insurance plan and what it might cost to add 5% to employee only coverage, not dependents.

Ann felt this was an issue that should be covered by an interim committee.

Chairman Garrett said there were many philosophical things beyond the scope of this particular group that should be discussed by an interim committee.

Rep Pasley-Stuart would like to see the state pick up the employee's portion of the higher health insurance premiums and a 1% raise.

Chairman Garrett will draft a letter to the full committee outlining this. The second part of the letter to JFAC would be supporting the Governor's recommendation.

Ann stated there were some people at top of pay scale who would not be able to have an increase.

The group felt the letter should incorporate some of the following language from a document put together by Matt.

"When allocating ongoing salary increases, state agency directors and higher education institution executives should give priority to employees in occupational groups with the greatest lag between current wages and labor market average rates."

"The Division of Human Resources shall approve all compensation and distributions plans to ensure they are consistent with the policies contained herein. The Division of Financial Management shall ensure that each agency and higher education institution compensation plan is implemented consistent with their respective appropriation."

The state should use this as a guiding principal.

Matt will contact the Department of Administration to find costs of insurance rates for employees only as compared to costs for employees and dependents.

The letter should include a recommendation for a 1.2% ongoing pay raise with items mentioned above as qualifiers.

Many of the items discussed by this group are items that an interim committee would need to look at. It is late in the session and it was not intended this committee research them.

There being no further business, the meeting was adjourned at 9:12 am.

Representative Kathie Garrett
Chairman

Barbara Allumbaugh
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE SUBCOMMITTEE STATE EMPLOYEE COMPENSATION

DATE: March 14, 2005

TIME: 8:10

PLACE: Room 416

MEMBERS: Chairman Garrett, Representatives Kemp, Pasley-Stuart

GUESTS: Ann Heilman, Matt Freeman, Audrey Musgrave, Bob Oberholzer, Jon Sowers.

MOTION: **Representative Pasley-Stuart moved to approve the minutes of March 11. By voice vote the motion passed.**

Matt Freeman presented three letters as requested by the Subcommittee at the last meeting. If the whole Committee approves, the selected letter will be sent to the JFAC Committee. Letter Number 1 urges JFAC to fund the Governor's 1% permanent increase with some additional benefits (Attachment 1). Letter Number 2 urges the passage of the Governor's 1% permanent increase (Attachment 2). Letter Number 3 has language for a 1% surplus eliminator (Attachment 3). Mr. Freeman said he checked with DFM and several other agencies to make sure the technical language was correct.

Ann Heilman commented that Item 1 on Letter 1 should be changed slightly in the interests of clarity. It is only recommending the increase in health care insurance costs for the employee be covered, not dependents. The members of the Subcommittee agreed to this change.

Rep. Pasley-Stuart said she preferred Letter 1, and her second choice was Letter 3.

Rep. Kemp said either Letter 1 or 3 was acceptable to her.

Chairman Garrett said they needed to pick the one they felt the strongest about. She commented that she thought the option in Letter 3 (1% surplus eliminator) would happen whether they did anything or not. She said she felt that choosing Letter 3 would be a wasted effort.

MOTION **Rep. Pasley-Stuart moved the Subcommittee recommend Letter 1 to the entire Committee. By voice vote the motion passed.**

Ms. Heilman commented as to the frustration in dealing with the same issues year after year. In spite of what the Committee recommends, money just seems to be shuffled around. If money is added one place, it is taken back somewhere else. She said With regards to insurance premiums, her office has to guess six months ahead of time what the deductibles are going to be and what the cost of health insurance is actually going to be.

Chairman Garrett said that RS 15048, calling for an interim committee to study the state employee compensation and benefits system, is sitting in the Ways and Means Committee. A letter needs to be written expressing the frustration of the CEC (Change in Employment Compensation) Committee's struggle year after year with a system that is not working. She expressed the Committee's frustration in that the statutes say one thing, but the reality is something else. The members agreed that it is painful to go through the process year after year and not be able to address all the issues. The CEC Committee is not structured to act on all the information that is presented to it. It is impossible for them to meet their statutory obligations. The establishment of an interim committee seems to be the best solution at this point in time.

Ms. Heilman said she liked the idea of a letter coming from the Legislators' point of view.

Rep. Kemp started drafting a possible letter to recommend to the Committee at the March 15 meeting. It will be passed among the members and be ready for presentation to the Committee.

Rep. Pasley-Stuart said she is upset by the mandate in statute regarding pay for state employees, and her inability to fulfill her legal duty.

Mr. Freeman commented that fundamentally the Committee has to decide what their object is, and then "how in the world are we going to pay for it."

Ms. Heilman said that a task force started at the time of Governor Batt, and that has continued on through the present administration discovered that some of the big companies say they pay the market rate, but in reality pay 10% below because of the prestige they feel is connected with their company. She said this is the 6th year that she has come to the Legislature, and nothing has really happened.

ADJOURN: There being no further business, the meeting was adjourned at 8:45.

Representative Kathie Garrett
Sub Committee Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 15, 2005

TIME: 2:47

PLACE: Room 416

MEMBERS: Chairman Schaefer, Representatives Lake, Trail, Bradford, Garrett, Bolz, Skippen, Anderson, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Vice Chairman McKague, Representative Crow

GUESTS: See attached copy

S 1092 **Sen. Goedde** presented S1092. Idaho Code section 72-706 (5) was amended in 1991 and there was a subsequent interpretation by the Idaho Industrial Commission. In 2003 a case went to the Idaho Supreme Court. Between the two, a loop hole has developed. There is some confusion as to whether or not there is a statute of limitations in regards to filing for medical benefits. Theoretically, 10 or 15 years down the line, an employee could say he was injured, and it would be very difficult to prove one way or another. This bill puts the statute of limitations for medical benefits back in code.

Jon Bauman, an attorney who has practiced Workers' Comp law in private practice for a number of years, spoke for the bill. He pointed out that there is no statute of limitations on an injured worker whose claim has been accepted. This is only for someone who has had their claim denied, or who doesn't file a claim. He said this is to close a loop hole. In answer to questions he said a worker has a year from the date of the original claim to file an appeal if the claim has been denied. The worker has a year from the date of the accident to file a claim, however a worker is supposed to file within 2 months of the accident. The claim is usually accepted or denied within 30 days. If the insurance company delays, it doesn't cheat the worker from benefits.

Sen. Goedde pointed out that this legislation has been reviewed by the Advisory Committee for the Industrial Commission

MOTION **Rep. Trail moved to sent S 1092 to the floor with a do pass. By voice vote the motion passed. Rep. Trail will sponsor the bill.**

At this point, Chairman Schaefer had to leave to present a bill in the Senate and Rep. Lake took the position as Chairman.

**REPORT:
Garrett
Subcommittee** **Rep. Garrett** presented a letter to the Committee from the Subcommittee. She said they had two meetings. One of the two issues, an interim committee, had been resolved with an RS presented in State Affairs that morning, and sent to be printed. (See Attachment 1) She then covered the recommended letter to JFAC which urges them to fund the Governor's 1% CEC and in addition, include only the employee's

portion of increase in health insurance costs. This would treat all state employees the same. The letter also urges the publishing of the market pay rate for each of the state job classifications. Even if the State can't do much about increasing the pay at this time, agencies will be better informed as to how to use their CEC money. Priority should be given to those employees in the groups with the greatest lag in market rate. And last, the Division of Human Resources should be charged with the approval of payment plans of the agencies to make sure they are consistent with the intent of the Legislature.

MOTION

Rep. Kemp, who served on the subcommittee, spoke in favor of the letter. **Rep. Kemp moved that the members approve the letter and send it to JFAC** (Joint Finance Appropriations Committee.)

Chairman Lake inquired if the Committee might be causing themselves some problems. By default when the CEC (Change in Employee Compensation) Committee could not reach a consensus, it "threw it into JFAC." He said JFAC seems to have chosen another path. He asked if it is now proper for the Committee to give JFAC another recommendation.

Rep. Kemp said that a variety of Committees have submitted minority reports to JFAC. She said she assumed that the Committee is weighing in with a minority report as the House Commerce and Human Relations Committee.

Rep. Pasley-Stuart pointed out that the Subcommittee was asked to do this by Chairman Schaefer. She commented that an ample trail has been blazed for the intent of this letter and she feels it is a wise and prudent thing to do.

Rep. Garrett commented she didn't bring the vote tallies from the Feb. 15 CEC meeting, but that the majority of the House members voted for the second motion, and this is similar to the second motion. (Chairman Lake commented that 9 voted yes.) She agreed that this is a minority report from the House Commerce and Human Resources Committee.

Chairman Lake commented that changes in the CEC and intent language should be discussed with the Department of Human Resources. He asked why address this letter to JFAC.

Rep. Garrett replied that we are the committee with the expertise in these issues. She said committees in the past (Health and Welfare, and Education) have been asked for recommendations by JFAC. We have the same rights and privileges to give directions to JFAC. She commented the Committee gives direction as to how the CEC money should be used.

Rep. Bolz said he was unsure of where to go on this issue. He serves on JFAC. He said he would like to see the state employees get CEC, but this has not yet been considered in JFAC. He said he wished this recommendation would have come much sooner.

Rep. Skippen, also a JFAC member, commented she didn't know what JFAC would do with this letter. She said JFAC got both a majority and

minority report from Health and Welfare on the budget. She did look at both of those reports. She said she didn't think the letter is a bad thing. She said she didn't know if it would help, but she didn't think it would hurt.

Rep. Ringo said we didn't have a joint committee process. She said she was not totally comfortable with opening the door to doing this when we couldn't come up with a decision as a CEC Committee.

Rep. Garrett said she understood the conflict and suggested listing the members who supported the letter, and omit the JFAC members if they wish. She commented that we can either look at this as a House Committee, or part of the CEC Committee and give a minority report. In response to further comments, Rep. Garret said the Committee understood that if the CEC Committee did not do anything, the Governor's recommendation stood. Now it seems as if the Governor's recommendation is not going to be the JFAC recommendation.

Chairman Lake commented that JFAC is not bound by the fact we accepted the Governor's recommendation by our inaction.

ACTION

On a roll call vote Reps. Trail, Garrett, Kemp, Sheppard, and Pasley-Stuart votes AYE. Reps. Lake, Bradford, Bolz, Anderson and Mathews voted NAY. Abstaining were Reps. Skippen and Ringo. (Absent/excused were Reps. Schaefer, McKague, Crow.) The vote was 5 to 5 with two abstaining. The motion was defeated.

Letter to Karl Kurtz, Health & Welfare

Rep. Pasley-Stuart presented a final draft of the letter to the Committee after making the changes recommended at the last meeting. (See Attachment 2)

Rep. Mathews spoke in favor of the letter.

Rep. Kemp said she was uncomfortable signing on to the letter from the Committee as a whole. She said she could live with it going out under the Chairman's signature.

Chairman Lake asked Ann Heilman if the letter was appropriate. **Ann Heilman**, Administrator of the Division of Human Resources, said she understood the frustration that many of us have shared from employees who met expectations, but did not receive a raise. She said she wasn't privy to the discussions between committee members and employees. She said the Committee members had more information about the salary administration process of Health and Welfare than she did. She said ideally the system would be funded so that employees who met expectations moved forward until they reached the market rate. At that point, they would only receive a raise if the market rate moved up.

Rep. Pasley-Stuart said she was directed by Chairman Schaefer to contact the department and find out what the cost would be to "make these employees whole."

Chairman Lake inquired of Ms. Heilman if it was appropriate for us as a Legislative policy-making body to direct a director as to how he administrates salary policy within his department.

Ms. Heilman said she tended to agree that there is a very fine line when the legislative branch interprets the execution of a directive by the administrative branch. If it is the Committee's belief that the department was acting out of bounds of the current law in using the phrase "exceptional future expectations," then that would be an important message to send. She again repeated that she believed the Committee had more information than she did.

Rep. Pasley-Stuart pointed out that the word in the letter is "recommend" rather than "directs."

Rep. Kemp asked if counsel or the Attorney General's office had checked out this letter for legal impact. Rep. Pasley-Stuart said no.

Chairman Lake asked Ms. Heilman if we should get the Attorney General's opinion before we move forward on this letter. Comment was made that Ms. Heilman was not an attorney.

ACTION

Rep. Ringo moved to approve the letter with the provision that the Committee receive approval from the Attorney General prior to forwarding the letter. By voice vote the motion carried.

ADJOURN:

The meeting was adjourned at 3:37 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

Representative Dennis Lake
Chairman

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 17, 2005

TIME: 2:57

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Crow, Bradford, Garrett, Bolz, Skippen, Anderson, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representative Kemp

GUESTS: See Attached sheets

MINUTES **Rep. Lake moved to accept the minutes of March 15. By voice vote the motion passed**

MINUTES **Rep. Lake moved to accept the addendum to the minutes for February 15. By voice vote the motion passed**

MINUTES **Rep. Lake moved to accept the minutes of March 9. By voice vote the motion passed**

HCR 22 **Representative Schaefer** presented HCR22. This bill requests an interim committee to study state employment issues. It took about a month, but the RS was introduced in State Affairs on Tuesday, and we now have it as a bill. There has been much discussion for the need for this interim committee already in the Committee.

MOTION: **Rep. Pasley-Stuart moved to send HCR 22 to the floor with a do pass. By voice vote the motion passed. Chairman Schaefer will carry the bill.**

H 331 **Senator Goedde** presented **H 331**. He started out with a brief history of the way Workers' Comp physician bills have been paid. He said Idaho used a fee schedule until the mid 1970s when "usual and customary" was adopted as the fee schedule. This system has seen some excessive charges. H 331 would return to a fee schedule RBRVS (Resource Based Relative Value System). This is used by 13 other states and Blue Cross. It is the most commonly used fee schedule in the nation. This bill will allow the Industrial Commission to set conversion factors or dollar values for each procedure based on complexity, cost, or time of the procedure. In cases where an RBRVS doesn't exist, or the case is more complex, the Industrial Commission can set a new RBRVS.

Senator Goedde also presented some intent language (See final copy below) which is to be added to the bill to put some parameters on the Industrial Commission suggesting if they get rid of the "outliers," the Commission might save as much as 10%. He had conversations with the Idaho Medical Associations, insurance companies, and others. Current rule says the Industrial Commission is to pay up to the 90th percentile of

“usual and customary costs.” The “outliers” are driving up the costs. This bill will hopefully reduce the physician costs.

Ken McClure, representing the Idaho Medical Association, spoke. He said the doctors are concerned about receiving payment for the services they provide. He thanked Senator Goedde for his work on the bill and said Sen. Goedde listened to their concerns. He suggested a small change in the intent language. He said changing the reimbursement system might appear to be relatively straightforward, but there is a lot that goes on. He expressed some anxiety that everything might not go well with the bill. He said it wasn't his intention to defend the practice of overcharging or over billing. (He said Senator Goedde was shown examples of this.) Mr. McClure said he didn't want to “throw out the baby with the bath water.” He doesn't want to see those hurt who are “playing the game fairly”. They want the intent language to reflect that there may be up to a 10% savings, but there is no data to show what the savings will actually be. They want the Industrial Commission to reduce the “outliers,” but don't want the Industrial Commission to have a mandate to reduce physician fees by 10%—a possible interpretation without the changes.

In response to questions he said this is not an emergency situation.

When asked if the intent language was going into the bill or the SOP, Mr. McClure said he wanted to “spread the intent language on the Journal.” He commented that with these changes, some people will not need to testify.

INTENT LANGUAGE

The current physician's reimbursement system employed by the Industrial Commission is seriously flawed. The Advisory Committee to the Industrial Commission has struggled unsuccessfully to correct the problem for over two years. HB 331 adopts a fee schedule and affords the Industrial Commission the authority to set conversion factors. It is understood that overall physician reimbursement may decrease by 10 percent by taking into consideration current billings for services outside the norm. The Industrial Commission shall consider conversion factors employed by health insurers in Idaho as well as conversion factors employed by other states in our region when establishing the original conversion factors. Additionally, when setting conversion factors, the Commission must be conscious of the need for access to services for injured workers. Should the legislature find that the Commission has not exercised due diligence and restraint, it is acknowledged that future legislatures may opt to establish said factors in statute.

Julie Lineberger, Administrator, Idaho Medical Group Management Associates, spoke. She said she applauded Senator Goedde for taking on this issue. She said hospital and facility costs also need to be addressed, as well as the administrative burden on physicians for treating these workers. She said she was not opposed to a fee schedule, but was saddened it needed to be done by legislation. She expressed concern about the date the law goes into effect. She said a lot of work has to be done, and so implementation by the date specified may not be possible. She said it always takes longer to implement a fee schedule than people think. She said the 10% reduction is a possibility, but not a certainty. They are dealing with averages, so her group doesn't know what the actual numbers will be.

In response to a question if this problem could be fixed without legislation, Ms. Lineburger said the Advisory Committee has been working for several years. She said reform of the entire system is needed, and physicians are the easy target. She said the advisory committee was ineffective.

Lynn Kelly, Practice Manager for the Boise Physical Medicine & Rehabilitation Clinic, spoke. She said she was not wholly opposed to the bill, but felt it might negatively impact those physicians who have developed a responsible practice for treating injured workers. She said there are considerable administrative costs and complications in treating injured workers under Workers' Comp. She asked that physician and medical management people be asked to help in developing the fee schedule. She said this would help things work together to quickly return these injured workers to the work place.

Leslie Filler, Occupational Health Coordinator for the Saltzer Medical Group, spoke. There are 44 physicians in her group. She has personally worked on both sides of the workers' comp issue. She currently is the liaison person between the patient and all parties involved. They are opposed to the early language indicating an absolute 10% reduction in expected costs. She said the amount of reimbursement needs to cover the paper work which is far more extensive in workers' comp than in other cases. She said the implementation schedule is unrealistic.

Lynn Darrington, of the Gallatin Group, spoke, representing Employers Compensation Insurance Company. She spoke in support of H 331. She said when she was working for Regence BlueShield, they converted to an RBRVS five years ago. She said Idaho is only one of 2 or 3 states that don't use RBRVS. She said shortly after Regence converted, the other health insurance companies in the state converted too. She said paying the "usual and customary" charges is most uncommon.

In response to questions, she said the time line is not premature if everything goes smoothly. She said there was a lot of concern when Regence converted 5 years ago. She said it is simply a matter of the Industrial Commission doing their work. She said she believed the time frame was fair.

Rep. Mathews expressed concerns several times as to whether everything in the bill was balanced and proper, and also expressed concerns about the time line. He said he wanted to make sure things were OK and what this bill does is actuarially sound.

Sen. Goedde said that the State Insurance Fund writes 80% of the workers comp insurance in Idaho. He said they have the data right now that the Industrial Commission would need. He said he has been told that the computer part of the conversion could be done in a couple of weeks.

Dave Whaley, President of the AFL/CIO for Idaho, spoke. He clarified that he sits on the Workers Comp Advisory Board and served on the subcommittee that was unable to come to an agreement. He said he was just giving his personal experience. He was not for, or against, the bill. He said the advisory committee tried to bring the parties together for

almost two years. He said hospital fees also need to be looked at. He said they could not get a consensus on a fee schedule out of the parties concerned. He said suggestions were given to the Industrial Commission only in November and he didn't think the Industrial Commission had enough time to put a schedule together. He expressed concern that the new system may go "awry" and will lose physicians.

Kent Day spoke, representing Liberty Northwest Insurance Corporation. He said his company was the largest private writer of workers' comp insurance in Idaho. He urged support for H 331. He said H 331 holds the potential for savings for both big and small employers throughout the state. He said this bill is fair to employees and employers and will serve the state well. He said payments for health carriers are less than those for workers' comp. Workers' comp payments should be more closely aligned with the other health carrier payments. Current workers' comp payments are higher than all but five other states in the US. Employers in Idaho should be paying closer to average, rather than at the 90 percentile. He said the "Blues" have adopted this type of coverage. He said the advantages are that it will 1) control costs, 2) make the programs more consistent with other states, and 3) add mechanisms for updating the physician payment schedule. (Payment depends upon time spent, work done, and cost associated with the procedure.) He said there are 30 years' worth of research to back up this RBRVS. He said the conversion factors will be set here in Idaho. He said this bill should help workers get back into the work force more quickly. He urged a yes vote on H 331 and said he doesn't feel that timing issues are a problem. He said his company uses this system in other states.

Woody Richards, representing American Family Insurance Company and Property Casualty Insurers Association, spoke.

He first commented that he was speaking for Suzanne Budge Schaefer of the National Association of Independent Businesses. She wanted to be recorded as saying that workers' comp issues rank as the third most important problem to small business owners.

Speaking for his clients, Mr. Richards said he believes this legislation is a good starting point. He said currently the Industrial Commission gets caught in disputes as to what is "usual and customary." His clients would like better control over costs and claims. While he didn't want to deprive workers of good physician care, he said the cost to the employer needs to be balanced.

In response to questions about the NCCI (National Council on Compensation Insurers), Mr. Richards said this organizations gathers data and information on the costs of claims—medical bills, down time, etc. They formulate rates based on trend lines and 2-3 year rolling averages. They simply make recommendations. States and companies can look at their own individual circumstances and make their own decisions on rates. The types of work and experience modes are also added to the mix. If the costs come down, the recommendation will be made for the rates to come down.

Tom Limbaugh, Commissioner for the Industrial Commission, answered questions. As to whether they can meet the time line, he said the Commission doesn't have a lot of experience at present with an RBRVS. The person who does their benefits is currently in Iraq until December.

He said they would do their best. The State Insurance Commission already has the numbers and conversion factors, and has offered to share the information with them. Also, they could get information from Liberty Northwest. He said he did not know how this information will be accepted by providers.

He said other states have an RBRVS in rule. If permanent rules are going to be reviewed during the 2006 session, the rules have to be written by August. However, there is a second date of November for temporary rules, and if they could use a temporary rule, they could make the April 1 date. He wondered if they will need another position to do the paper work, and will they need a trailer bill to pay for the position. He said they really don't know how it will work out.

Rep. Ringo commented that the insurance companies are in favor of H 331, but the medical community is uncomfortable with the time line. She said Mr. Limbaugh is saying this could work, but there might be some problems. She asked how important it was to act upon this issue this year.

Mr. Limbaugh said the information they are using right now is old, and comes out of California. That is where the codes are way out of line. Some things are too low. "The System is out of wack." Forty-one states have some type of fee schedule, and 13 use RBRVS. He does have some concerns about the time line. If they can adopt a temporary rule, and make the April 1 implementation date, they can do that. Until they get into it, they really don't know how things will turn out.

In answer to Chairman's question as to how long it would take to run it by the medical community, Mr. Limbaugh said it depends on how they do it. Do they take the information from the sureties and run it by the medical association? Do they do hearings, or wait for 25 signatures on a petition asking for a hearing? His first guess would be to run the numbers in front of the IMA (Idaho Medical Association.)

In response to further questions, Mr. Limbaugh said the system itself is solid, and is utilized by the federal government. This system is used in Medicare and is very solid. He referred to some studies that are available on the web (www.RBRVS.com and www.iaabc.org). He said if the conversion factors are too low, the system would backfire on them. He said the Industrial Commission is neutral on this legislation. He said they will do everything possible to facilitate this legislation if it passes.

MOTION

Rep. Mathews said he was now comfortable with the legislation and **moved to send H 331 to the floor with a do pass. By voice vote the motion passed with Rep. Ringo voting Nay. Rep. Mathews will carry the bill**

ADJOURN:

The meeting as adjourned at 4:22 p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 23, 2005

TIME: 1:32

PLACE: Room 416

MEMBERS: Chairman Schaefer, Vice Chairman McKague, Representatives Lake, Trail, Bradford, Garrett, Bolz, Skippen, Kemp, Mathews, Ringo, Shepherd (2), Pasley-Stuart

**ABSENT/
EXCUSED:** Representatives Crow, Anderson

GUESTS: Bob Wells

MINUTES **Rep Lake moved to accept the minutes of March 17. By voice vote the motion passed.**

Chairman Schaefer said that last Friday he was talking with Bob Wells at the graduation for the Idaho State Police Troopers in the Rotunda. He asked Mr. Wells to repeat his comments to the Committee

Bob Wells, representing the Idaho State Police (ISP) *pro bono*, spoke. At the graduation in the Rotunda, he recognized the recruiting officer from Seattle, who was looking over the graduating class. He said they choose the top members of the class and offer them 2 ½ times the salary once they have completed their probation. He said Boise City, the City of Spokane, and even the City of Garden City pay more than the ISP. A number of older ISP officers stay because they have so much invested in the retirement system that they cannot afford to leave.

Mr. Wells said that it costs around \$100,000 each to train the 24 officers each year--a cost of 1.5 million. He said "there aren't that many state troopers on the road. We as citizens deserve better than what we are getting." He said 65% to 70% of the troopers leave for other jobs. He mentioned a father who is a Captain of Patrol in the Coeur d'Alene. His son was an ISP trooper and left for a job in the City of Spokane where as a regular patrol officer he makes three times his father's salary.

The Committee then generally discussed the lack of CEC (Change in Compensation) for State Employees. Many members expressed frustration with the way things turned out.

ADJOURN: 2:20p.m.

Representative Robert Schaefer
Chairman

Janet Bryant
Secretary