

House State Affairs Committee

Minutes
2005



MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 13, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representatives Ellsworth, Edmunson, Jones

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

Chairman Deal called the committee organizational meeting to order at 9:03 A.M. with a quorum being present. There were no minutes to review. He introduced Karen Daniels, new Committee Secretary, and Sarah Dexter, Page. He informed the committee that Teresa Jones, previous Committee Secretary, is now working for Keller-Williams Realty. The Chairman introduced all of the Committee Members and welcomed the new and returning Members.

Chairman Deal explained that the State Affairs Committee deals with a multitude of issues. Some of the major issues to come before the committee this year deal with the lottery, telecommunications, open records, horse racing, elections, same sex marriage and the bond bank.

The Committee will follow *Mason's Manual of Rules*. The Chairman stressed the importance of our Citizens' testimony, indicating that questions may be asked during testimony but any debate on issues will be held until all testimony has been taken.

The Agency Rules were handed out and the Committee as a whole will review the Rules on Tuesday, January 18 and Wednesday, January 19. On Thursday, January 20 the Committee will consider several pieces of Legislation.

The Chairman requested that all Members be on time so agenda items can be completed in the time allotted.

ADJOURN: The meeting was adjourned at 9:21 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 18, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Rep. Pasley-Stuart

GUESTS: Please refer to the Committee sign-in sheet.

Chairman Deal called the meeting to order at 9:00 A.M. with a quorum being present. The first order of business was to review the minutes of January 13, 2005.

MOTION: **Representative Shepherd(2)** made a motion to accept the minutes of January 13, 2005 as written. Motion carried by voice vote.

DOCKET NO. 31-1101-0401 **Safety and Accident Reporting Rules for Utilities**

Mr. Paul Kjellander, President, Idaho Public Utilities Commission (PUC), explained that through **Docket No. 31-1101-0401**, the Commission will adopt, by reference, Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations. The federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by rule. Mr. Kjellander stated that there were no public comments received.

DOCKET NO. 31-2101-0401 **Utility Customer Relations Rules**

Mr. Paul Kjellander, President, Idaho Public Utilities Commission (PUC), presented **Docket No. 31-2101-0401** to the Committee, explaining that this rule deals only with water, electric and natural gas utilities – telephone services are being dealt with in the following rule. The proposed changes are necessary to conform with Idaho's Unclaimed Property Act and pertain to instances where water, electric or natural gas utilities customers have made deposits or advance payments to obtain utility service.

DOCKET NO. 31-4101-0401 **Telephone Customer Relations Rules**

Mr. Paul Kjellander, President, Idaho Public Utilities Commission (PUC), spoke to the committee regarding **Docket No. 31-4101-0401**, stating that the Commission is proposing several changes to its Telephone Customer

Relations Rules.

First, the rule changes pertain to telephone customer deposits or advance payments to obtain utility service and conform to Idaho's Unclaimed Property Act. Second, the proposed revisions are intended to eliminate ambiguities and clarify the procedures for issuing and obtaining a medical certificate. Mr. Kjellander stated that all PUC rules should now conform to the same requirements for medical certificates. Finally, these changes adopt the updated version of slamming regulations promulgated by the Federal Communications Commission.

Vice Chairman Smylie asked if a motion was in order for the PUC rules presented by Mr. Kjellander. Chairman Deal stated that he prefers to wait until all of the rules have been reviewed before a motion is entertained.

**DOCKET NO.
40-0101-0401**

Rules of the Idaho Commission on the Arts

Mr. Dan Harpole, Executive Director, Idaho Commission on the Arts, explained that **Docket No. 40-0101-0401** places into rule the current requirements for applicants under the Commission's grant and award programs. The proposed rules do not create new programs or requirements for applicants, but are simply housekeeping rules. He mentioned that the grant and awards guidelines have been modified over a 30-year period and have been adopted by the Commissioners, but they have not gone through the rulemaking process until now. The Commission's administrative rules were adopted by the Legislature last session.

When asked if the Commission had received any public comments on these rules, Mr. Harpole said none were received. In response to a question about the language being deleted that pertains to the makeup of the Board, Mr. Harpole explained that this language is now contained in the administrative rules that were adopted last session.

ADJOURN:

There being no more business to come before the committee, the meeting was adjourned at 9:10 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 19, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representatives Snodgrass and Andrus

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

Chairman Deal called the meeting to order at 9:04 A.M. with a quorum being present. The minutes of January 18, 2005 were reviewed.

MOTION: **Representative Miller** made a motion to accept the minutes of January 18, 2005 as written. The motion carried by voice vote.

Docket No. 03-0101-0401 **Rules Governing the State Athletic Commission**
Mr. Kit Clark, Deputy Attorney General, presented **Docket No. 03-0101-0401** to the Committee. He said that State Athletic Commissioner, Mr. Tom Katsilometes, was unable to attend the meeting. Mr. Clark explained that amendments of the Athletic Commission's statutes by the 2004 Legislature limit unsupervised fighting contests and exhibitions. In an effort to preclude unsupervised fighting contests and exhibitions, all martial arts were included within the definition of boxing, basically regulating daily martial arts activities and requiring a sanction from the Athletic Commission for martial arts activities.

Mr. Clark said this rule is necessary to ensure that martial arts schools and their students are able to continue their daily activities without regulation by the Commission. This rule clarifies which martial arts activities are to be regulated (exhibitions and contests which involve combative contact between the contestants and participants).

When asked how many interested parties had contacted the Commission regarding this change, Mr. Clark mentioned one entity indicated this rule would create a hardship. In response to a question about the number of martial arts schools in Idaho, he said he did not know, but the intent of last year's statute was not to bring them under regulation. He also ensured the Committee that "tough man" events are still regulated.

Docket No. 34-0301-0401 **Rules Implementing the Sunshine Law**
Mr. Tim Hurst, Chief Deputy, Secretary of State, informed the committee that **Docket No. 34-0301-0401** deals with the implementation of the Sunshine Law that was adopted in 1993. This rule formalizes the reporting requirements set forth for lobbyists and their employers.

Required forms for lobbyist registration, annual reporting, campaign financial disclosure, and expenditures incurred (debts and obligations) and payment made on debt will be removed from the appendix and made available online. This rule drops the requirement for reporting office expenses and specifically outlines the expenditures that are to be reported.

The Committee had no questions for Mr. Hurst.

**Docket No.
38-0601-0401**

Idaho Emergency Communications Commission Temporary Rules

Ms. Joanna Guilfooy, Deputy Attorney General, explained that the Emergency Communications Commission was established in the Department of Administration, effective July 1, 2004. The Commission is directed to mediate disputes between local government agencies over the governance of operations of consolidated emergency communications systems. These temporary rules will govern the mediation process and will be brought before the Legislature next session as pending rules.

No comments have been received on these rules. When asked to give a hypothetical example of a situation that the Commission might get involved in, Ms. Guilfooy explained that in situations where small local government entities combine resources for emergency communications there may be disputes.

The Committee having completed its agency rules review, Chairman Deal stated that if there were no further questions that a motion on the rules would be in order.

MOTION: **Vice Chairman Smylie** moved that the agency rules be adopted as presented. The motion carried by voice vote.

ADJOURN: There being no more business to come before the Committee, the meeting was adjourned at 9:20 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 20, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Ellsworth

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of January 19, 2005 were reviewed.

MOTION: **Representative Shepherd(2)** moved that the minutes of January 19, 2005 be accepted as written. The motion carried by voice vote.

RS 14463 **Representative Darrell Bolz** presented **RS 14463** to the Committee. He mentioned that several Fire Protection Districts asked him and Chairman Deal to look at the current statutes to determine if they indicate when the Fire Protection District's fiscal year begins and ends. In researching this he found that Article VII, Section 1 of the Idaho Constitution states that "*The fiscal year shall commence on the second Monday of January in each year ...*", but there was nothing in statute that identified the fiscal year for a Fire Protection District. Therefore, all of the Districts were out of compliance with the Constitution.

This legislation will specify in law that the fiscal year of a Fire Protection District shall commence either on the first day of October of each calendar year or on the first day of January of each calendar year, as established by resolution of the Fire Protection District Board of Commissioners. It was clarified that this legislation is in compliance with the Constitution because the Constitution sets the fiscal year "*unless otherwise provided by law*".

MOTION: **Representative Loertscher** moved that **RS 14463** be introduced for printing. Motion carried by voice vote.

RS 14468 **Representative Richard Wills** presented **RS 14468** to the Committee. He said the purpose of this legislation is to allow electronic bingo to be played, and he emphasized that bingo is an entertainment game, not gambling. He indicated that he is not aware of any contentious issues that have resulted from the tightening of bingo rules. He pointed out that allowing electronic bingo allows those with physical handicaps to play.

Representative Wills walked the Committee through the legislation

pointing out the definitions for “electronic bingo card” and “electronic bingo devices” that are given on Page 2, starting on Line 15. The term “electronic bingo paper” has been added on Page 4, Line 50. A new section of Idaho Code, Section 67-7716 identifies “Electronic Bingo Device and Site Systems and the Lottery Commissions role is spelled out in Section 67-7717 and 67-7718. Section 67-7719 pertaining to “Licensed Organizations and Use of Electronic Bingo Devices” was added.

In response to a question about electronic bingo paper, it was pointed out that the term “disposable paper bingo cards” has always been there. When asked about the types of business establishments that will have electronic bingo, it was clarified that this legislation does not include tribal entities.

MOTION: **Representative Ring** moved to introduce **RS 14468** for printing. Motion carried by voice vote.

RS 14552 **Mr. Mike Nugent**, Supervisor, Research and Legislation, spoke in favor of RS 14552; legislation that is know as the codifier’s bill. He explained that in the course of a legislative session, multiple amendments to a single code section, chapter or title are frequently passed and occasionally the amendments result in conflicting numbering of sections and subsections.

Rather than waiting for future amendments to the various affected sections, this bill compiles those code sections affected in the legislative sessions prior to 2005 that contain conflicting numbering so that the designations may be corrected. There are no substantive law changes involved with this legislation.

MOTION: **Representative Jones** made a motion to introduce RS 14552 for printing. The motion carried by voice vote.

ADJOURN: There being no more business to come before the Committee, the meeting was adjourned at 9:21 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 25, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

GUESTS: Please see the Committee sign-in sheet.

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of January 20, 2005 were reviewed.

MOTION: **Representative Stevenson** made a motion to accept the Minutes of January 20, 2005 as written. The motion carried by voice vote.

RS 14654 **Representative Smylie** presented **RS 14654** to the Committee. This legislation is a result of the records retention legislation that was presented last session. This legislation repeals Sections 50-907 - 50-910 and adds several new sections. The new Section 50-907 retains the current classifications of permanent, semipermanent and temporary records and requires that permanent records are to be kept indefinitely and may not be destroyed. Permanent records may be transferred to the state archives.

Temporary records are to be retained for not less than two years, but financial records are not to be destroyed until the completion of the city's financial audit. Semipermanent and temporary records may only be destroyed by resolution of the city council. City council's have until January 1, 2007 to adopt by resolution a records retention schedule.

The new Section 50-908 states that the city clerk shall serve as the municipal records manager and spells out those duties.

The new Section 50-909 clarifies the process for the retention of photographic and digital media. Once a paper document is retained in a non-paper medium as authorized, the original paper document may be disposed of or returned to the sender, except for permanent records which must be retained by the city in perpetuity or transferred to the Idaho State Historical Society's permanent records repository.

MOTION: **Representative Pasley-Stuart** moved to introduce **RS 14654** for printing. The motion carried by voice vote.

RS 14537

Mr. Brett DeLange, an attorney representing the Attorney General's Office, spoke in support of RS 14537. Mr. DeLange is assigned to tobacco related legislation, and said this legislation clarifies that .09 ounces of "roll-your-own" tobacco (RYO) is a "unit sold" under the Idaho's Tobacco Master Settlement Agreement Act. The Act requires that tobacco product manufacturers can either join the Master Settlement Agreement (MSA) or establish an escrow account and make deposits into escrow based upon their "units sold" in Idaho.

Some manufacturers argue that because Idaho taxes RYO differently from cigarettes and does not require an excise tax stamp to be affixed to RYO containers, it is not a "unit sold". Therefore, some manufacturers that have not joined the MSA are not depositing into escrow based upon sales of RYO in Idaho. This directly undercuts the purposes for which the Act was passed and puts those who have joined the MSA at a disadvantage.

MOTION:

Representative Ring moved to introduce **RS 14537** for printing. The motion carried by voice vote.

RS 14538

Mr. Brett DeLange, an attorney representing the Attorney General's Office, spoke in support of **RS 14538**. He explained that this legislation amends Section 39-8403, Idaho Code to provide that the Attorney General may condition certification of a nonparticipating tobacco product manufacturer upon obtaining from the manufacturer its consent to be sued in Idaho court for purposes of the State enforcing any provision of the Complementary Act.

A directory will be kept of certified manufacturers that are in compliance. Mr. DeLange mentioned that certain foreign manufacturers are claiming immunities where the tobacco company is owned by the people. Proper waivers must be received and Idaho law must be followed before these companies are allowed to operate in Idaho.

MOTION:

Representative Ring moved to introduce **RS 14538** for printing. The motion carried by voice vote.

Vice Chairman Smylie assumed the duties of Chairman.

RS 14668

Representative Bill Deal presented RS 14668 to the Committee. He pointed out that the Committee dealt with similar legislation last session that attempted to add a new Section to Idaho Code. That legislation passed in the House, but not the Senate. Representative Deal said he sits on the Board of the State Insurance Fund and members were sued individually by an attorney from Coeur d'Alene.

This bill takes current statute and extends the language to board and commission members to (1) eliminate some current confusion over the state's responsibility to provide a legal defense to its employees when they are sued in their personal capacity for actions related to their job; (2) clarify that the term employee includes board members and other executives who are entitled to the same legal defense as other employees of state agencies; (3) provide that a simple allegation by a plaintiff in a lawsuit does not require that a private attorney be hired; and (4) make

clear that people and attorneys who pursue frivolous allegations against people serving on boards and commissions of the State of Idaho are subject to sanctions by the court.

MOTION: **Representative Miller** moved to introduce **RS 14668** for printing. Representative Deal clarified that this legislation only covers those who are conducting business within the scope of their duties as a board or commission member. The motion carried by voice vote.

Representative Deal again assumed the duties of Chairman.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:23 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 26, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting or order at 9:02 A.M. with a quorum being present. The minutes of January 25, 2005 were reviewed.

MOTION: **Representative Shepherd(2)** moved to accept the minutes of January 25, 2005 as written. The motion carried by voice vote.

Mr. Chuck Winder, Chairman, Idaho Transportation Department (ITD) Board, briefed the Committee on the Grant Anticipation Revenue Vehicle (GARVEE) investments along with the currently programmed projects (Attachment 1). He also outlined the investment benefits (Attachment 2). Mr. Winder said the vision for this project is to connect Idaho with a modernized multi-lane highway system. He pointed out that the GARVEE project is just one piece of the puzzle that is estimated to cost \$1.6 billion. Idaho has a \$6-8 billion dollar backlog of transportation projects. He emphasized that this project is "not just a wish list", but will expand economic benefits and opportunities and impact 44 counties.

Mr. Winder assured the Committee that this proposal provides an opportunity to save money in the long run, because the same project 20 years from now would cost about \$6 billion. The \$1.6 billion will not be requested all at once, but on a project by project basis. The program can be stopped if interest rates change. All projects will have to be supported locally and meet NEPA and other federal requirements. Legislative approval is required each budget year.

Mr. David Ekern, Director, Idaho Transportation Department, stated that in 1995 GARVEE bonds were authorized for transportation use through the federal TEA-21 bill. These bonds have been used by 16 states and there is now a growing body of experience with their use.

Mr. Ekern briefed the Committee on the financial analysis used for this proposal. (See Attachment 3 for Foundations for Use, Assumptions and two graphs depicting the Investment Impact Analysis.) A chart titled "Total Payouts for \$100 Million Project" looks at the potential savings with the use of GARVEE bonds (Attachment 4), and GARVEE Questions and

Answers can be found in Attachment 5. Mr. Ekern pointed out that an important part of the analysis is the assumption that there will be no increase in state revenue for 9 years. He reiterated that at anytime during the project, the Transportation Investment Board can stop the projects if interest rates change.

In response to questions from the Committee, Mr. Ekern and Mr. Winder made the following comments:

- Inflation was built into the front end of the project and assumed no increase in state funding;
- Every dollar received will be associated to projects;
- Approval from the Legislature will be needed each year;
- Because this is project specific, the funds are not available for local projects, but there are other federal funding opportunities available to local entities for transportation projects that do not require Legislative approval;
- There are ways to provide for public transit, but it requires that a plan be developed;
- The \$1.6 billion dollars is a small percentage of the \$5-6 billion managed by ITD;
- The Idaho Transportation Department Board and the Idaho Housing and Finance Board, as well as the Legislature, have oversight of this project.

Ms. Julie Pipal, ITD, was introduced as the contact if the Committee members have questions or need further information.

Mayor Garrett Nancolas, Chairman, Idaho Emergency Communications Commission, presented the Commission's annual report to the Committee. He said the 14 member Commission was created by the 2004 Idaho Legislature. The members of the Commission were identified and their accomplishments for this first year in operation were highlighted. Their mission statement is *"Enhancing Idaho's public health, safety, and welfare by assisting emergency communications and response professionals in the establishment, management, operations, and accountability of consolidated emergency communications systems."* (Refer to Attachment 6 for the Commission's annual report.)

David Moore, Idaho Chiefs of Police Association, was introduced and identified as a valuable resource if the Committee need further information.

Mr. Mark Lockwood, Chairman, Idaho Statewide Interoperability Executive Council (SIEC) informed the Committee that this Council was formed in August 2003 by Governor Kempthorne, and the Council has 18 statewide members and four technical advisors. The purpose of the Council is to provide policy level direction and to promote efficient and effective use of resources for matters related to public safety wireless radio interoperability. The Council works closely with transportation, law enforcement, fire services, EMS, emergency management, homeland security, microwave services, lands and military (Attachment 7).

The SIEC was one of five groups chosen for a grant from the National

Governors Association.

Ms. Dodie Linder-Collier, Project Manager for the SIEC, was introduced and the Committee was told she is available locally to answer questions about the Council and its activities.

ADJOURN:

Chairman Deal thanked the presenters for their presentations. There being no more business to come before the committee, the meeting was adjourned at 10:24 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: January 27, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Jones

GUESTS: Please refer to the Committee sign-in sheet.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The Chairman called upon Representative Smylie to address a correction to the January 25, 2005 minutes.

MOTION: **Representative Smylie** explained that on Page 1, Paragraph 1, Sentence 2 the words "that passed" should read "that was presented". The correction was so noted. He then made a motion to accept the Minutes of January 25, 2005 as corrected. The motion carried.

The minutes of January 26, 2005 were reviewed by the Committee.

MOTION: **Representative Ring** moved to accept the minutes of January 26, 2005 as written. The motion carried by voice vote.

RS 14665 **Mr. Bob Corbell**, representing Management Associates and Idaho Grape Growers and Wine Producers Commission, spoke in support of RS 14665. He mentioned a request for public records that asked for three year of records that required 7-8 days of staff time to meet. He said that there are numerous boards and commissions, who do not have full time staff to handle these requests and that more lead time is needed. He said it doesn't mean that these entities will not respond, but just need a reasonable amount of time to do so.

This legislation will give public agencies, commission or boards 20 working days of the date of receipt of the request for examination or copying. If additional time is needed to locate or retrieve the public records these entities would have 30 working days following the person's request.

MOTION: **Representative Smith** made a motion to introduce **RS 14665** for printing. Representative Stevenson questioned the fact that the legislation does not clearly state "no full time clerical or administrative staff. Chairman Deal suggested the words "clerical or administrative" could be added at the end of Line 20. Representative Ellsworth asked that the SOP be revised to reflect what the bill actually does. Right now it explains the

problem, but not what the bill changes.

**SUBSTITUTE
MOTION:**

Representative Stevenson made a substitute motion to introduce **RS 14665** for printing after the words “clerical or administrative” are added at the end of Line 20 and the SOP has been corrected to reflect the intent of

RS 14560C2

Mr. Bill Roden, representing Qwest Communications, spoke in favor of **RS 14560C2**. He pointed out that in 1988 the Legislature deregulated all telephone services except local telephone service. He mentioned that even though House Bill 502 was defeated in the Senate last session, a lot of good has come out of that. Throughout the summer, consumer groups, legislators and other stakeholders met to resolve the issues and put together the legislation being presented today. Mr. Roden said this legislation was presented to all regulated companies in Idaho.

In addition to provisions that were also contained in HB 502, this legislation contains the following additional safeguards:

- Caps retail stand-alone telephone service prices at a rate that does not exceed the maximum basic local exchange rate approved by the Public Utilities Commission (PUC) for a minimum period of three years, or up to five years, at the option of the Commission;
- Assures that the benefits of price competition in urban areas will also benefit customers in rural areas, by prohibiting rural rate increases above the rate established in the company’s most populous urban area;
- Protects customers of rural companies from unwanted price increases by using the prices in effect on July 1, 2005, as the benchmark pricing for eligibility to draw from the Universal Service Fund, unless the PUC determines another benchmark should be used;
- Guarantees that a customer will always have the option of “plain old telephone service” (POTS), without having to take package plans or services the customer does not want;
- Provides the PUC with continuing authority over basic local exchange service quality standards, billing practices and procedures, and customer notice and customer relations rules and does not interfere with the continued availability of assistance to low-income persons.

MOTION:

Representative Black made a motion to introduce **RS 14560C2** for printing. The motion carried by voice vote.

RS 14687

Representative Marge Chadderdon spoke in favor of **RS 14687**. She said that this legislation amends Section 51-106, Idaho Code, by adding that “Only blue or red ink shall be used for the rubber stamp” on Lines 20-21. With the quality of photocopy machines, it is difficult to detect a copy when black ink is used. This simple change will help combat identity theft.

MOTION:

Representative Shepherd(2) made a motion to introduce **RS 14687** for printing.
A Committee member said that at their school, master copies are signed in blue ink and certain types do not copy well. Another member asked

about the embossed Notary seal and Representative Chadderdon explained that in 1998 the Notary Public stamp was changed. Another member pointed out that with the ultra high quality colored printers that even currency can be copied and voiced a concern that this may affect this legislation. Representative Chadderdon said that the Kootenai County sheriff's office felt that by using blue or red ink the original document could be identified.

It was suggested that Representative Chadderdon check on the issue of some blue inks not copying well, and that she also check with the Secretary of State's Office on this change before the bill comes before the Committee.

VOTE ON THE MOTION:

A vote was called for on the motion to introduce **RS 14687** for printing. The motion carried by voice vote.

RS 14728

Representative Jim Clark spoke in support of **RS 14728**, explaining that this change strikes all of the language in Lines 9-15 and changes "which" to "that" on Line 18. Under current Idaho Code, if a retailer wants to buy a certain brand of wine, they must purchase a full case lot. In the event the distributor does not have a full case of that particular wine the retailer will have to purchase bottles of wine that are not as preferable in order to comply with the current statute. This legislation will remove the unnecessary requirement.

Representative Clark clarified that the retailer would be billed according to the brands supplied by the distributor.

MOTION:

Representative Ring made a motion to introduce **RS 14728** for printing. The motion carried by voice vote.

ADJOURN:

There being no more business to come before the committee, the meeting was adjourned at 9:26 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 1, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** None

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of January 27, 2005 were reviewed.

MOTION: **Representative Pasley-Stuart** made a motion to accept the minutes of January 27, 2005 as written. The motion carried by voice vote.

RS 14602C1 **Representative Kathy Skippen** spoke in favor of **RS 14602C1**, a

Ms. Sharon Garmon, who grew up with Representative Skippen in

MOTION: **Representative Smylie** made a motion to introduce **RS 14602C1** for printing. The motion carried by voice vote.

RS 14524 **Representative Lenore Hardy Barrett** spoke in favor of **RS 14524**. She said the purpose of this legislation is to include racing Appendix horses as an Idaho bred racing thoroughbred for the purpose of distributing certain daily receipts to owners and breeders. She pointed out that this change will bring more revenue to the state. This breed originated in Idaho and the American Appendix Horse Association was founded in Idaho.

MOTION: **Representative Ellsworth** made a motion to introduce **RS 14524** for printing. The motion carried by voice vote.

RS 14684 **Representative Steve Smylie** spoke in favor of **RS 14524**. He provided information showing that the Idaho State Racing Committee did not file their 2003 annual report until January 4, 2005. This legislation will require that the annual report be made available no later than March 31 and will include data that the Commission has the regulatory power to collect, including the financial report of the Commission and licensees. A member of the Committee asked if there was an explanation given for the late report and if they are not complying now, is there anything in the legislation that will ensure compliance. Representative Smylie said that rather than include a penalty he had chosen to tighten up the time frame for the report.

- MOTION:** **Representative Ellsworth** made a motion to introduce **RS 14684** for printing. The motion carried by voice vote.
- RS 14590** **Representative Jim Clark** spoke in favor of **RS 14590**. He stated the purpose of this legislation is to require a two-thirds majority vote of the Senate and the House of Representatives to appropriate or transfer moneys from the Idaho Millennium Fund.
- MOTION:** **Representative Miller** made a motion to introduce **RS 14590** for printing. The motion carried by voice vote.
- RS 14476** **Mr. Steve Guerber**, Executive Director, Idaho State Historical Society spoke in favor of RS 14476. He referred to the legislation that had failed last year and said they learned it was better to deal with each aspect of the legislation separately. This legislation relates to the creation of an Idaho State Historic Review Act of 2005. It authorizes a review of projects on state land by the State Historic Preservation Office of the Idaho State Historical Society to, if possible, alleviate any negative impact on the historic significance of a building or site. This review is intended to become a part of routine planning for projects and will take place using existing resources. The response to the project proposal will be made within 30 days after receiving sufficient project information for review. Mr. Guerber pointed out that "the recommendations of the State Historic Preservation Office are to be used as a planning tool to avoid unnecessary loss of historic properties, or minimize the potential adverse impact on historic properties, and not to specifically delay or halt a project". When asked if this includes school district buildings, Mr. Guerber said not unless the buildings are on state land.
- MOTION:** **Representative Miller** made a motion to introduce **RS 14476** for printing. The motion carried by voice vote.
- ADJOURN:** There being no more business to come before the committee, the meeting was adjourned at 9:30 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 2, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** None
- GUESTS:** Please refer to the attached Committee sign-in sheet and see the presenters highlighted below.
- Chairman Deal** called the meeting to order at 9:02 with a quorum being present. The minutes of February 1, 2005 were reviewed.
- MOTION:** **Representative Shepherd(2)** made a motion to accept the minutes of February 1, 2005 as written. The motion carried by voice vote.
- RS 14740C1** **Representative Mack Shirley** spoke in favor of **RS 14740C1**. He introduced **Mandy DeCastro**, Meeting Planner, Association of Idaho Cities, and **Kelly Houston**, Executive Director of Serve Idaho to the Committee.
- He said this resolution asks for support by the Idaho Legislature of the five basic promises included in both America's and Idaho's promise to children and youth; encourages expansion of Communities of Promise in the state; and declares the Legislature of the State of Idaho as a "Legislature of Promise". Representative Shirley pointed out that the five promises listed in the legislation are easy to deliver and they meet the needs of children young people with little or no cost. He said only 13 of the 208 Idaho communities are involved in the Communities of Promise program, and he encouraged each member to become involved in this effort in their own communities to combat problems like gangs and teenage suicide.
- MOTION:** **Representative Ring** made a motion to introduce **RS 14740C1** for printing.
- SUBSTITUTE
MOTION:** **Representative Smylie** made a substitute motion to introduce **RS 14740C1** for printing and send it to the 2nd Reading Calendar. The substitute motion carried by voice vote and the RS will be sent to the 2nd Reading Calendar after printing.
- RS 14741** **Representative Tom Trail** spoke in favor of **RS 14741**, indicating that the Idaho Fair Elections Option is a voluntary and optional system to provide limited financing for state-level candidates who agree to limit

spending. The funds are from non-tax sources, including a surcharge on civil penalties and voluntary donations. Because this option is voluntary It is deemed to be constitutional. This option has been adopted in Maine, Arizona and Vermont.

Representative Trail pointed out that legislative campaign contributions have doubled in Idaho since 1998 according to the Secretary of State's office. He said he personally spent 20 days raising funds during the last election and spent \$24,000. He feels this option would allow candidates to spend less time fundraising and encourage more individuals to run for office. A handout was provided outlining how candidates can participate, describing the qualifying contribution of \$5 from registered voters in their district, and outlining the "qualifying period". A chart showing estimated distribution of Fair Elections Campaign Funds was also provided (Attachment 1).

A discussion followed and several Committee members voiced the following concerns: (1) the amount of funds available for the Primary and the timing of those funds; (2) the 10% surcharge as outlined on Page 9, Line 15; (3) the candidates having to collect qualifying contributions while still in session and the possibility that this legislation changes the filing date; (4) the violation of law because contributions cannot be solicited before the official filing date; and (5) the irritating language used in the legislation, i.e. Page 2, 34-2602 (1) (h) insinuating that legislative decisions are made on behalf of major contributors.

In response to the concerns, it was clarified that the funds would be available early in the process and the \$4,000 for Primary Elections was just an example. Funding would vary from district to district. The 10% surcharge is additional. Campaign managers could collect the qualifying contributions for the candidates, and the impact of this legislation on the filing date needs to be clarified. The language is the same language used in other states' legislation and it may be too harsh for Idaho.

MOTION: **Representative Stevenson** made a motion to return **RS 14741** to the sponsor, explaining his concern about adding a 10% surcharge on the courts when they are already struggling. He also expressed his opposition to the language in the legislation. Representative Andrus suggested that this legislation be printed and given further consideration. A vote was called for on the motion to return **RS 14741** to the sponsor. The motion carried by voice vote. The RS will be returned to the sponsor.

RS 14748 **Representative Russ Mathews** spoke in favor of **RS 14748**. He said that if this legislation is enacted it would more accurately disclose the current and probable cost of government operations and investment decisions; more completely disclose the financial condition of state government; offer better comparisons of actual costs, benefits or accomplishments so that the Governor and the legislature may adequately plan for future budgets; and be a comprehensive and cost effective strategy for modernizing the state's financial structure.

He stressed that he is in no way implying that the financial people in the state are not doing a good job, but it is important to disclose actual and real costs to the public. Representative Mathews talked about the duties

of the State Controller and that person's relationship with the Governor, explaining that this legislation proposes that they work in tandem. He emphasized that the current financial system doesn't break down the costs by person or by program and it would benefit all to have a clear financial reporting system and would allow for better decisions.

When asked how he derived the \$50,000 figure on the fiscal impact statement, Representative Mathews said this was an estimate based on conversations with members of JFAC and Mike Nugent. In response to a question about this legislation being a conflict of interest between the executive branch and an elected official, he said he did not feel it was.

MOTION: **Representative Smylie** made a motion to return **RS 14748** to the sponsor. He said he agreed with the goals outlined in the legislation, but was concerned that the estimated fiscal impact would be much greater. He also was concerned about the requirement on Page 4 for all department heads to sign a statement, under penalty of perjury, assuring that the agency's internal accounting controls are in compliance.

SUBSTITUTE MOTION: **Representative Loertscher** made a substitute motion to introduce **RS 14748** for printing, stating that this change is long needed in the budget process. He said there are some technical changes needed, but the best way to uncover these is to take testimony and review this in detail.

Representative Jones argued in favor of the original motion to return **RS 14748** to the sponsor because it creates an internal conflict and there are national standards in place for budgets and audits.

VOTE ON THE SUBSTITUTE MOTION: A vote was called for on the substitute motion to introduce **RS 14748** for printing. The motion failed by a voice vote. The RS will be returned to the sponsor.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 10:15 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 3, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Ellsworth

GUESTS: Please refer to the Committee sign-in sheet.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. He introduced **Ms. Marcella Stewart**. The minutes of February 2, 2005 were reviewed.

MOTION: **Representative Shepherd(2)** made a motion to accept the minutes of February 2, 2005 as written. The motion carried by voice vote.

RS 14752 **Representative Wendy Jaquet** spoke in favor of **RS 14752**. She explained that the proposed legislation to modify Idaho's electoral vote process copies Maine and Nebraska and proposes to distribute Idaho's electoral votes in the following way: (1) highest vote getter gets the two at large electoral votes related to the two Senators; (2) Additional electoral votes are allocated by who wins the congressional district. This modification would make sure that every electoral vote would actually matter, and it would require candidates pay attention to all voters.

Idaho has 4 electoral votes out of 537. By using Maine and Nebraska's method in the last campaign, all 4 votes would have gone to President Bush. The term for the current model is "unit rule", the winner of the state's popular vote gets all of the state's electoral votes.

Representative Jaquet said through her research she found that the founding fathers had difficulty deciding how to elect a president and that the "unit rule" was the second choice for most of them. The southern states also had a role in the "unit rule" model because they had a larger population to get more electoral votes but didn't have many people voting; slaves could not vote.

She stated she is bringing the modification in response to her constituents because (1) today's model is not relevant; (2) people in Idaho have a strong desire to make their vote count; (3) its important to get issues of the Intermountain West address by the presidential candidates; and (4) lots of people in Idaho would like to be a swing state.

MOTION: **Representative Smylie** made a motion to introduce **RS 14752** for printing. He said he may not be able to vote "yes" on this legislation, but

felt it needed to be considered. Representative Andrus said he agrees the RS should be printed and considered. The motion carried by voice vote.

HB 22

Mr. Mike Nugent, Supervisor, Research and Legislation, spoke in favor of **HB 22**; legislation that is know as the annual codifier's bill. He pointed out that this bill contains 50 pages of text and corrects 122 sections of code. He called the Committee's attention to Page 24, Lines 4 and 5 and clarified that these lines are repealed because the definitions are contained elsewhere in the charter school law.

Many of the corrections being made resulted from conflicting statutes being passed, duplicate sections, and inaccurate text references when sections are moved and renumbered. This bill compiles those code sections affected in the legislative sessions prior to 2005.

MOTION:

Representative Miller made a motion to send **HB 22** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Snodgrass will sponsor the bill on the floor.

Representative Smylie introduced **Gaye Bennett** and **Sally Zive**,

HB 46

Mr. Brett DeLange, an attorney representing the Attorney General's Office, spoke in support of **HB 46**. He said that tobacco product manufacturers who do business in Idaho have two options (1) either join the Master Settlement Agreement (MSA) or (2) establish an escrow account and make deposits into escrow based upon their "units sold" in Idaho. This legislation clarifies that .09 ounces of "roll-your-own" tobacco (RYO) is a "unit sold" under the Idaho's Tobacco Master Settlement Agreement Act.

Some manufacturers argue that because Idaho taxes RYO differently from cigarettes and does not require an excise tax stamp to be affixed to RYO containers, it is not a "unit sold". Therefore, some manufacturers who have not joined the MSA are not depositing into escrow based upon sales of RYO in Idaho. This directly undercuts the purposes for which the Act was passed and puts those who have joined the MSA at a disadvantage. Mr. DeLange clarified that "RYO" sales are less than 5% of the market.

MOTION:

Representative Ring made a motion to send **HB 46** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Ring will sponsor HB 46 on the floor.

HB 47

Mr. Brett DeLange, an attorney representing the Attorney General's Office, spoke in support of **HB 47**. He explained that this legislation addresses an issue that has arisen in Idaho where tobacco manufacturers are claiming sovereign immunity and therefore not complying with Idaho law. He gave an example of the Seneca Cayuga Indian Tribe from New York that sells cigarettes in Idaho. They have not joined the MSA, they did not deposit funds into an escrow account, and they claim sovereign immunity from complying with State laws because of their legal status. They are protected by significant federal laws.

HB 47 authorizes the Attorney General to obtain a certification showing that the tobacco product manufacturer is a participating manufacturer or has established an escrow account and made deposits into escrow based upon their "units sold" in Idaho. The Attorney General may condition certification of a nonparticipating tobacco product manufacturer upon obtaining from the manufacturer its consent to be sued in Idaho district court for purposes of the State enforcing any provision of Idaho law. This legislation will ensure that such manufacturers, before their products are sold in Idaho, will agree to be accountable and responsive to Idaho law

It was clarified that this legislation only addresses cigarettes sold in Idaho, and there are two types of fees collected. The licensed stamper collects an excise tax when he fixes the excise tax stamp on the cigarettes, and the tobacco manufacturers deposit approximately two cents per cigarette sold in Idaho in an escrow account.

MOTION: **Representative Ring** made a motion to send **HB 47** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Ring will sponsor HB 47 on the floor.

HB 24 **Representative Darrell Bolz** presented **HB 24** to the Committee. He mentioned being contacted by several Fire Protection Districts to determine if they were in compliance with Idaho Code pertaining to a Fire Protection District's fiscal year. Article VII, Section 1 of the Idaho Constitution states that "*The fiscal year shall commence on the second Monday of January in each year, unless otherwise provided by law*". When the statutes were originally put in place an oversight occurred and the fire district's fiscal year was not specified.

The 153 districts either commence their fiscal year on October 1 or on January 1. It would be very expensive for all of them to change this to comply with the second Monday in each year. This legislation provides the flexibility needed by specifying in law that the fiscal year of a Fire Protection District shall commence either on the first day of October of each calendar year or on the first day of January of each calendar year, as established by resolution of the Fire Protection District Board of Commissioners.

MOTION: **Representative Smylie** made a motion to send **HB 24** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Bolz will sponsor HB 24 on the floor.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:33 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 8, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Edmunson

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

Chairman Deal called the meeting to order at 9:04 A.M. with a quorum being present. The minutes of February 3, 2005 were reviewed.

MOTION: **Representative Pasley-Stuart** made a motion to accept the minutes of February 3, 2005 as written. The motion carried by voice vote.

Mr. Scott Turlington, Director, External Relations, Tamarack Resort LLC, updated the Committee on the expansion at the resort since the 2003 legislation was passed extending their lease to 49 years. Tamarack is a new style, boutique, four-season resort that is smaller and allows visitors to readily move around the facilities. It is the newest, fully permitted and constructed resort to open in the west in twenty-three years.

Tamarack's signature, its mountain, meadow and lake front, are being marketed as "the secret is out" and articles have appeared in the *New York Times* and *USA Today* highlighting its "alluring mix of terrain". Tamarack offers easy access and is directing its marketing to the 17 cities that have direct flights to Boise.

The resort encompasses 3,600 acres of state land and 1,500 acres of private land. The 10-year master plan, approved by Valley County, calls for 2,043 units to be built. These units include a variety of accommodations including town houses, condos, cottages, chalets and 350 estate lots for private homes. There are 62 cottages and chalets and 45 of those are available for ski-in and ski-out rentals starting at \$100 per person per night.

Tamarack has five ski lifts and offers a variety of recreational opportunities including Nordic and Alpine skiing, a 500-foot super pipe, 10 kilometers of snowshoe trails, a 10-acre terrain park and the magic carpet for beginning skiers as well as ski runs for the most advanced skier. Tamarack's fees are very competitive and range from \$55 for adults to \$28 for children. Individual season passes are \$399 and family passes are \$899. The Robert Trent Jones II signature golf course should have all 18 holes completed by fall. This course ranks in the top five in the west.

Discovery Square is the heart of the "first generation" village. The dome structures have made it possible to open the resort quickly and continue a

long-term build out program. Amenities currently offered are seven restaurants, a ski bar, full rental services, a ski and ride school, fresh groceries, a medical clinic and a retail store.

Tamarack has offered three real estate releases, all of which have sold out: January 2004 - \$46 million dollars; June 2004, \$33 million and January 2005, \$91.5 million. All proceeds are invested back into the resort. The Member's Lodge is now under construction with the bottom two levels complete. This will be a six-story facility. Further expansion is planned with 1-3 additional ski lifts, hiking and biking trails, and additional construction in the permanent village.

Mr. Turlington stressed the excellent working relationships with several McCall lodges, Brundage Ski Resort, Valley County and the State Department of Lands.

In response to questions from the Committee, Mr. Turlington provided the following information:

- Of the state land being leased, 2,100 acres are being used for skiing and 60 acres for the golf course;
- Tamarack is working with the Bureau of Reclamation to relocate the campground at Poison Creek and develop a day-use area;
- Tamarack has agreed to pay for 30% of the road improvements and major reconstruction will begin by summer to eliminate bottlenecks and improve roads;
- Tamarack has spent millions of dollars and worked with Idaho Power to install underground power lines to ensure that adequate power is available;
- Property owners will pay up front for water and sewer hookups;
- The Department of Lands has been very helpful and willing to help find solutions.

HB 48

Representative Steve Smylie deferred his time to **Mr. Justin Ruen**, Association of Idaho Cities. Mr. Ruen spoke in favor of **HB 48** and explained that this legislation was developed by city clerks from around the state with input from the State Archivist, representatives of the Idaho State Historical Society and the Idaho State Historical Records Advisory Board. The legislation makes the following changes to the city records retention laws:

- T** Retains the current classifications of permanent, semipermanent and temporary records, but provides that permanent records (minutes, ordinances and resolutions) must be retained indefinitely by the city or transferred to the state archives. Current law allows destruction of permanent records after 10 years.
- T** Provides that cities may choose to transfer permanent records to the state archives for permanent storage.
- T** Changes provisions relating to building plans and specifications to match the county records retention law.
- T** Clarifies that temporary records must be retained for at least two years and financial records shall not be destroyed until completion of the city's financial audit.
- T** Requires approval by the city attorney prior to destruction of semipermanent and temporary records.
- T** Provides that cities have until January 1, 2007 to adopt a records retention schedule. A records retention manual including a model retention schedule is being written.

- T** Designates the city clerk as the municipal records management officer, overseeing maintenance and destruction of city records, identifying records of historical significance, and coordinating the transfer of records to the Idaho State Historical Society.
- T** Provides that city officials have a responsibility to protect the records in their custody, and that no city official has any personal right to possess or destroy city records.
- T** Clarifies the process for photographic or digital preservation of city records.

PRO **Ms. Annette Mooney**, City Clerk, City of Boise, spoke in favor of **HB 48**, stating she is representing many city clerks from throughout Idaho. She stressed that this was an excellent collaborative effort. Records retention requirements have been clarified and an easy retention process developed. Safe-keeping issues have also been addressed.

PRO **Ms. Christine Pappas**, City Clerk, Post Falls, **Ms. Jan Fisher**, City Clerk, Hayden, and **Ms. Susan Weathers**, City Clerk, Coeur d'Alene, all agreed with Ms. Meeney's statements and indicated they too support **HB 48**.

PRO **Mr. Steve Walker**, Idaho State Archivist, spoke in support of **HB 48**. He provided a handout identifying the reasons that he is endorsing this legislation (Attachment 1). He pointed out that an efficient and effectively operated Records Management Program can save money.

In response to a question about why poll books are retained, it was clarified that poll books are the only record that breaks down how a precinct voted, and they also provide valuable research and trend data even as far back as territorial times.

PRO **Mr. Rod House**, Archivist, Idaho State Archives, submitted written testimony supporting **HB 48** (Attachment 2).

MOTION: **Representative Pasley-Stuart** made a motion to send **HB 48** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Smylie will sponsor **HB 48** on the floor.

HB 58 **Representative Marge Chadderdon** spoke in favor of **HB 58**, stating this legislation relates to the Idaho Notary Act and amends Section 51-106, Idaho Code. The legislation provides that only blue or red ink shall be used for the rubber stamp.

With the quality of photocopy machines, it is difficult to discern which documents are originals and which are copies. Because of identity theft and related crimes, this change would also help guard against falsifying records and further protect the law-abiding public.

Representative Chadderdon said in talking with the Secretary of State's office about the fiscal impact, she found that there are 24,636 notaries public in Idaho and approximately 1,493 of those are in state government. It would cost around \$28 per new stamp. The cost for state employees would be paid by the agency, but individuals would have to pay for their own. She suggested that the stamp could be replaced when the notary's term expires. Also, the bill does not have an implementation date and this may need to be addressed.

A discussion followed and the Chairman suggested that Line 21 could be amended to add an effective date "when the notary's application is renewed". Representative Black said he doesn't feel we should let this go for 5 or 6 years until the terms expire. He felt the effective date should be July 1, 2005 and the Secretary of State should notify all notaries public. When it was suggested that new ink pads could be purchased for a small amount, it was pointed out that most stamps have ink in them and this would require replacing the stamp at a cost of \$28.

PRO **Mr. Ben Wolfinger**, Kootenai County Sheriff, spoke in support of **HB 58**. He explained this issue surfaced when a Deputy copied a document and then couldn't tell which was the original. He said this is not a "fix all", but unless we go back to the embossed stamp changing the ink should eliminate this problem.

It was suggested by Representative Snodgrass that we could achieve the same thing by using a cheap rubber stamp that says "original".

MOTION: **Representative Smylie** made a motion to HOLD **HB 58** FOR TIME CERTAIN until Tuesday, February 15, 2005 to allow Representative Chadderdon time to work with the Secretary of State's office on the issues raised by the Committee. The motion carried by voice vote.

H 59 **Representative Jim Clark** spoke in favor of **H 59**. He said this legislation modifies Section 23-1327, Idaho Code, by deleting the language that requires wine to be purchased in case lots. This legislation was set in place in 1972 and is very inconvenient for retailers and distributors.

PRO **Mr. Bob Corbell**, representing the Idaho Grape Growers and Wine Producers Commission, spoke in favor of **HB 59**. He wholeheartedly supports this legislation because it will benefit Idaho wineries. Of the 25 wineries in Idaho some are very small. This legislation benefits allows them to sell two or three bottles of wine to restaurants for them to try.

MOTION: **Representative Hart** made a motion to send **HB 59** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Clark will sponsor **HB 59** on the floor.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 10:10 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 9, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representatives Ellsworth, Snodgrass, Anderson, and Smith(30)

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

Chairman Deal called the meeting to order at 9:04 A.M. with a quorum being present. The minutes of February 8, 2005 were reviewed.

MOTION: **Representative Miller** moved to accept the February 8, 2005 minutes with a correction on Page 3, Paragraph 2; "Meeney" should be "Mooney". The correction was noted, and the motion carried by voice vote.

RS 14759 **Representative Frank Henderson** spoke in favor of **RS 14759**. The purpose of this legislation is to allow motor racing facilities the same opportunity to apply for a liquor license as is extended to race tracks and golf courses under Section 23-953.

Representative Henderson said this issue was raised by a motor racing facility in Post Falls that holds races on Wednesday and Saturday from March through October. They have about 5,000 in attendance per week and they hold 158 races a season. It is estimated that \$50,000 in additional revenue to the State of Idaho would be generated from liquor licenses and taxes on the liquor sales.

A Committee member asked that Representative Henderson to be prepared, when the hearing is held on this legislation, to provide the proactive measures that would be taken to discourage drinking and driving. Representative Henderson said he would have the principle of the facility and law enforcement officials attend the hearing. He agreed this is a serious consideration.

Another question was ask about the new liquor license and Representative Henderson said the facility would have to apply each year and pay about \$400 for the liquor license.

MOTION: **Representative Shepherd(2)** made a motion to introduce **RS 14759** for printing. The motion carried by voice vote.

- RS 14739** **Representative John A. Stevenson** asked for unanimous consent to return **RS 14739** to the sponsor. Additional time is needed for the Fire Chief and the attorney from Burley to re-look at the legislation. The unanimous consent was granted and **RS 14739** will be returned to the sponsor.
- RS 14824** **Mr. Bob Corbell**, Executive Director for the Grape Growers and Wine Distributors Commission, spoke in favor of **RS 14824**. He explained that there are three grower members and two producer members serving on the Commission who are appointed by the Governor. Because the members appointments expire in June and the Commission meets monthly, this change would allow the current Commission members to continue to serve until reappointed or until a new Commission member is appointed. This will ensure a quorum is present and allow the Board to conduct Commission business if appointments are delayed.
- The second part of this legislation addresses the issue of grape juice being imported rather than grapes. The original legislation specified that grapes being imported would be taxed. With the new technology, grapes go through the press and come into Idaho as juice. One hundred sixty-seven (167) gallons of juice equals one ton and will be taxed in an amount not to exceed twenty-five dollars per ton. This amount is identical to the tax paid to Washington for exported grapes/grape juice.
- A Committee member suggested that the fiscal impact statement might need to be changed. Mr. Corbell said he would look into this.
- MOTION:** **Representative Smylie** made a motion to introduce **RS 14824** for printing. The motion carried by voice vote.
- HB 61** **Mr. Bob Corbell** stated that because major concerns have surfaced since **HB 61** was printed, he would like to postpone hearing this legislation until February 21, 2005. He mentioned that a meeting with the Idaho Press and Broadcasters will take place next Monday to try and address the concerns. This legislation would apply to about 30 boards and commissions.
- MOTION:** **Representative Jones** made a motion to hold **HB 61** for TIME CERTAIN until Monday, February 21, 2005.
- HB 23** **Representative Richard Wills** spoke in favor of **HB 23**. He indicated that he had received no negative comments regarding this bill. This legislation will (1) provide a computer generated accounting record of all transactions and (2) allow persons with physical disabilities to continue to play bingo.
- Page 2 starting on Line 15 provides descriptions for electronic bingo cards and devices, host system and site system. These changes will make it much easier for the Commission by providing computer generated reports relative to sales and rentals.
- PRO** **Mr. Roger Simmons**, Director, Idaho Lottery Commission, spoke in support of **HB 23**. He said that the Idaho State Lottery is responsible for regulating bingo, monitoring the operation of charitable bingo, and

auditing bingo parlors in Idaho. The Bingo/Raffle Advisory Board has the responsibility to review the operation and regulation of bingo games and raffle events in Idaho. He mentioned that some parlors will continue to use paper cards, but more and more will use hand held devices. This legislation makes bingo fair and available to those with disabilities.

Amber French, Detective, Idaho Lottery, said she supports HB 23, but had nothing to add.

PRO

Mr. Hal Franck, manager/controller, National Defense Veterans in Mountain Home, spoke in favor of **HB 23**. He said he was testifying with the express approval of the Idaho State Bingo/Raffle Advisory Board on behalf of the charitable community. Charitable organizations are IRS 501(c) or nonprofit, fraternal membership organizations numbering 100 plus in Idaho, and they are licensed by the state to conduct bingo fundraisers.

Mr. Franck provided information on the needs of seniors and the disabled who are avid social bingo players. (See Attachment 1 for Mr. Franck's testimony). He reiterated that the object of HB 23 is to provide seniors and the disabled with access to hand held devices and to provide better reporting capabilities.

PRO

Mrs. Lee Periman, bingo manager and President of the Bingo Advisory Committee, spoke in support of **HB 23**. She said she has attended demonstrations of the hand held devices and feels this is good legislation.

MOTION:

Representative Pasley-Stuart made a motion to send **HB 23** to the floor with a DO PASS recommendation. The motion carried by voice vote.

Vice Chairman Smylie assumed the Chair for Chairman Deal

HB 49

Representative Bill Deal spoke in favor of **HB 49**. This bill will eliminate some current confusion over the scope of the state's responsibility to provide a legal defense to its employees when they are sued in their personal capacity for actions related to their job. On Page 1, Line 24 it extends the meaning of employee to include board members, commissioners and executives.

Representative Deal pointed out that in response to Representative Hart's question during the print hearing related to the course and scope of employment, an amendment was prepared that deletes Lines 13 & 14 on Page 2 and inserts *"including a defense and indemnification against any claims brought against the employee in the employee's individual capacity when the claims are related to the course and scope of employment"*.

This legislation also makes it clear that people and attorneys who pursue frivolous allegations against people serving on boards and commissions of the State of Idaho are subject to sanctions by the court.

MOTION:

Representative Jones made a motion to send **HB 49** to the AMENDING ORDER with Committee amendments attached. **Representative Garrett**

seconded the motion. The motion carried by voice vote.

ADJOURN:

There being no more business to come before the committee, the meeting was adjourned at 9:37 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 10, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. Chairman Deal requested unanimous consent that **HB 61** (being held TIME CERTAIN until February 21) be moved to the February 22 agenda due to the Memorial Service scheduled on February 21. There were no objections and HB 61 will be placed on the February 22 agenda.

The minutes of February 9, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to approve the minutes of February 9, 2005 as written. The motion carried by voice vote.

HJM 2 **Representative Kathy Skippen** spoke in favor of **HJM 2**, legislation that urges the members of Idaho's congressional delegation to seek compensation for Idahoans through the Radiation Exposure Compensation Act (RECA). She said she was apprehensive about this issue until she studied the packet of information given to her by Sharon Garmon (her school mate who spoke at the February 1, 2005 print hearing). Representative Skippen said once she went through the packet of information she felt the data was accurate. She has spent her summer listening to the victim's stories.

One story she shared was about Dick Linville who was the Prosecuting Attorney in Gem County and was one of four children. Three of the four have some type of cancer. Dick does not have cancer; he was lactose intolerant and didn't drink unprocessed milk. The other story was about a woman who grew up in Gem County and her family owned a dairy. Several of her family members have died from cancer. The woman now lives in Utah in a county where compensations are being made, but because she was raised in Idaho she does not qualify. This demonstrates the unfairness to Idahoans where the numbers of those affected are startling and frightening.

This legislation asks our Congressional delegation to fight for compensation for Idahoans and lets them know that the Idaho Legislature is supporting their efforts. She called the Committee's attention to the list of co-sponsors on this legislation, saying it is rare you will find these six names together on

any legislation.

An e-mail from Kimberly Neibaur Shaw was given to the Committee members. Kimberly's family lives in the Minidoka area and five members of her family have been diagnosed with cancer, three of whom have a rare form of leukemia (Attachment 1).

Representative Skippen called the members attention to the e-mail address (ialnabulsi@nas.edu) where they can contact the Board on Radiation Effects Research, in care of Dr. Al-Nabulsi, to submit information about themselves or a family member before March 31, 2005. The results of this research will be released after March and will have an influence on the outcome of whether Idahoans will receive compensation. She showed the Committee a booklet that addresses questions about the energy employees occupational illness compensation program. Legislation (P.L. 106-398) provides compensation for employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who became ill as a result of work performed in the production and testing of nuclear weapons in the amount of \$150,000 tax free. She stated she is not saying the RECA should compensate individuals at a higher rate, but the victims who were innocently exposed should be compensated.

MOTION: **Representative Smylie** made a motion to send **HJM 2** to the floor with a DO PASS recommendation. He said he commends Representative Skippen for bringing this legislation to us and for not letting us forget about these individuals.

PRO **Representative Wendy Jaquet** spoke in support of **HJM 2**. She also commended Representative Skippen for her dedication and hard work. Representative Jaquet represents constituents from Shoshone where there are about 150 identified cases of Multiple Sclerosis; constituents from Rupert who have ovarian cancer; and constituents in the Carey, Fairfield, Bellevue and Hailey areas who have various types of cancer.

She referred to a letter from Marypat Fields, second wife to Wes Fields, who lives in Camas County (Attachment 2). Marypat is a retired RN with knowledge and interest in Public and Environmental Health. Through her research, Marypat discovered that 106 individuals or 11.7% of the 908 residents of Camas County between 1950 to 1970 are possibly affected by radiation exposure. Marypat feels all of Southern Idaho needs to be included under the RECA program both for compensation and equally important for information and medical screening and referral services.

Representative Jaquet reminded the members that Congressman Simpson has frequently talked about the importance of the Memorials this body sends to Washington.

PRO **Mrs. Margaret Satterlee**, representing herself, spoke in support of **HJM 2**. She stated that she grew up in Bellevue and is a fifth generation native of Blaine County. Her family ate vegetable from their own garden and bought beef and milk from a local farmer. The children in her family were born between 1950 and 1968 and four of the six have had tumors, thyroid problems or cancer. Her father was also a victim and died from lung cancer. She emphasized that she was not here about the money because

no amount of money could ever compensate for her family's loss. She said "Our government radiated us. It's time our government admitted it. It's time that our government acknowledged the wrong it did to us." She asked for their help to make sure the Federal government acknowledges what it did to her family and countless others (Attachment 3).

VOTE ON THE MOTION:

A vote was called for on the motion to send **HJM 2** to the floor with a DO PASS recommendation. The motion carried unanimously by voice vote. Representative Skippen will sponsor **HJM 2** on the floor.

HB 86

Representative Jim Clark spoke in favor of **HB 86**, saying that this legislation has come about due to circumstances the last 7 years. He provided a brief history of the Idaho Millennium Fund. In 1998 the final court settlement, Master Settlement Agreement, occurred between the tobacco companies and 48 states. As a result, Idaho receives about \$28 million per year. In 2000, legislation passed that created the Millennium Fund and the money received is deposited with the State Treasurer to be invested. A statutory formula is used for an annual transfer of moneys from the Fund to the Idaho Millennium Income Fund, and the Joint Millennium Fund Committee provides recommendations annually on the use of these moneys.

There has been about \$2.2 million available annually for health and tobacco related programs and scholarships for students majoring in health fields. Representative Clark provided a chart entitled "History of Idaho Millennium Income Fund Appropriations" showing which programs have been funded since 2001. This year \$680,000 was available and requests for about \$2.9 million were received. Therefore, it was necessary to go into the corpus of the Fund to make up the difference.

This legislation will require a two-thirds majority vote of the Senate and House of Representatives to appropriate or transfer moneys from the Fund.

A Committee member asked Representative Clark to clarify the language in 67-1807, "Except as provided in Section 67-1803". He responded that current law provides that they can recommend to JFAC how the money should be used, but JFAC can always use "notwithstanding any provision of the law" in their decisions.

In response to a question about whether the programs shown on the chart would continue to be funded, he gave a qualified "yes" except only \$680,000 was available and it was necessary to go into the corpus of the Fund for the remainder.

When asked why not just bring legislation not allowing going into the Fund, Representative Clark said he tried that last year and the legislation failed in the Senate.

It was pointed out that based on the language in 67-1803 it appears this could happen again in the future if interest is low. Representative Clark agreed, but said he feels it would require a two-thirds vote if this legislation passes.

MOTION:

Representative Hart made a motion to send **HB 86** to the floor with a DO

PASS recommendation. He said he agrees with the purpose and because the budget forecast for 2006 and 2007 do not look good, it is important to take the necessary measures now. There being no further debate on the motion, a vote was called for. The motion failed by voice vote and **HB 86** will be held in Committee.

HB 87

Mr. Steve Guerber, Executive Director, Idaho State Historical Society, spoke in favor of **HB 87**. He asked the Committee to visualize walking along the Oregon Trail on a steep incline and encountering a cell tower right on the trail. He said this legislation is trying to avoid unnecessary impacts to historical state lands and buildings by reviewing projects on state lands. The State Historic Preservation Office cannot stop or delay a project, but would provide recommendations. About 95% of the projects won't have an impact.

Federal law requires reviews by the State Historic Preservation Office and some states have local historic preservation organizations in place. Idaho is one of the few states who doesn't require reviews on state lands.

He referred to the last section of the legislation, 67-4103.(3), that states *"the state agency or other entity of state government proposing the project will have the discretion to act upon the recommendations of the state historic preservation office. The recommendations of the state historic preservation office are to be used as a planning tool to avoid unnecessary loss of historic properties, or minimize the potential adverse impact on historic properties, and not to specifically delay or halt a project"*.

Mr. Guerber responded to the following questions by Committee members:

- Number of projects anticipated per year? Department of Administration estimates 500-1000 projects, many of which would not have historic significance.
- Does your agency have enough person power to handle the workload without a fiscal impact? Mr. Guerber said he would review the project and then pass it on to the people who are currently doing the Federal reviews. He said they would rather begin the process and evaluate the impact as needed rather than ask for additional personnel now.
- What is the cost to the agencies? This would depend on the scope of the project and the decision of the agency on whether the recommendations were cost effective. It is not anticipated that the cost would be exorbitant.
- Is the fiscal impact being passed on to those doing the Federal inspections? Federal funding is available for these inspections and additional fiscal costs are not anticipated.

A concern was voiced about Mr. Guerber's first analogy about cell towers. Because we are just beginning to make progress on alternative energy methods it is hoped this legislation would not interfere with that. Mr. Guerber said he recognizes the need for these alternative methods of energy and placement could be in close proximity of a historic site and if the agency does not feel the recommendations make sense they do not have to implement them.

MOTION:

Representative Miller made a motion to send **HB 87** to the floor with a DO

PASS recommendation.

Representative Smylie debated in favor of the motion, noting there would be a benefit to have experts identify impacts up front so projects are not delayed at the last minute.

Representative Anderson said he respects the comments that have been made, but he is aware of the impacts and costs of Federal inspections for developers when complaints are filed by one person.

Representative Ring urged caution and said his great, great grandfather who crossed the Oregon Trail from Missouri probably would have appreciated being able to whip out a cell phone and call for help when being attacked.

Representative Jones spoke in favor of the motion and mentioned that the new windmills by Hagerman are situated near the Hagerman Fossil Preserve within 2-3 miles of the Oregon Trail. We need to preserve what's left of our State's history..

VOTE ON THE MOTION:

A vote was called for on the motion to send **HB 87** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Miller will sponsor HB 87 on the floor. Representatives Edmunson and Smylie will be co-sponsors.

ADJOURN:

There being no more business to come before the committee, the meeting was adjourned at 10:04 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 11, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** Representative Ellsworth
- GUESTS:** Please refer to the Committee sign-in sheet and see the presenters highlighted below.
- Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of February 10, 2005 were reviewed.
- MOTION:** **Representative Ring** made a motion to approve the minutes of February 10, 2005 as written. The motion carried by voice vote.
- Chairman Deal introduced his wife, Joan, and her brother, John Farris. He asked that the Committee keep Vice Chairman Smylie and his wife Marsha in their thoughts as Marsha travels to see her father who is critically ill.
- RS 14968** **Representative Bob Nonini** introduced **RS 14968** to the Committee. He explained that this proclamation is to recognize and honor the long and distinguished career of Hilde Kellogg who served Idaho for 20 years.
- MOTION:** **Representative Shepherd(2)** moved to introduce **RS 14968** for printing and send it to the Second Reading Calendar. Motion carried by voice vote.
- HB 84** **Representative Lenore Barrett** spoke in favor of **HB 84**. The purpose of this legislation is to recognize the Racing Appendix Horse and include them in the breeds that are allowed to race in Idaho. Each track must approve which breeds can race.
- This legislation will make history for this breed in Idaho. It will result in more money coming into Idaho because there are Appendix horse owners throughout the United States who would come to Idaho to race their horses.
- Representative Barrett said she admires Kathy Hatch, President of the American Appendix Horse Association, for her enthusiasm, her visionary approach to this issue, and her hard work.
- PRO** **Ms. Kathy Hatch**, President of the American Appendix Horse Association, spoke in support of **HB 84**. Ms. Hatch explained that the Appendix horse derives out of the quarter horse registry, but because the Quarter Horse Association wasn't enthused about recognizing this breed the breed was labeled Appendix horses. These horses are really more thoroughbred than quarter horse. The Appendix horse has not gained recognition by the

Register of Merit and have been in limbo for 60 years.

Her association's goal is to derive a registry so Appendix horse owners can do what they want regarding breeding, showing, and racing. Their organization is bigger than the Appaloosas, and they want to make racing Appendix horses an industry in Idaho and gain the recognition they deserve.

Ms. Hatch responded to Committee members questions and explained that:

1. The term "Appendix" is nationally recognized in the horse business. The name is used not to encroach on the quarter horse, and they are more thoroughbred than quarter horse.
2. The emergency clause was added to the legislation in the hopes they could begin racing as soon as possible.
3. Ms. Hatch did go before the Idaho Racing Commission with this issue, and they encouraged her to bring this bill to the Legislature.
4. The Quarter Horse and Thoroughbred Associations do not register any other breeds but their own and their bylaws are written to exclude what they consider are "throw away" breeds.
5. Appendix horse races would be longer races, and they would be entered in the "all breeds races" not races against quarter horses or thoroughbreds.
6. Collecting a percent of the profits would help legitimize the breed, but the money is not the issue. These horses are an entity of their own and there is great interest in this breed throughout the United States.
7. Because these horses are bred with thoroughbreds it adds speed and bone structure making them desirable for jumping and barrel racing and other uses.

PRO

Ms. Ardie Noyes, Management Assistant, Idaho Racing Commission spoke on behalf of the Commission and Mr. Baker, Director of the Commission, who is in the hospital.

Ms. Noyes said that when Ms. Hatch brought this proposal before the Idaho Racing Commission, the Commissioners did not have a problem with the proposal. It will require that the racing secretary at each race track in Idaho write races for the Appendix horses.

Ms. Noyes clarified that the fees are percentage based. In response to a question about whether there are other sections of code where this breed would need to be recognized, she said she was not aware of any.

In closing, Representative Barrett said Legislative Services did research the code to ensure no other sections needed to be changed. She said this legislation provides another option. This new group with a vision wants to race and be part of the racing industry in Idaho.

MOTION:

Representative Edmunson made a motion to send **HB 84** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Barrett will sponsor the bill on the floor.

HB 85

Representative Steve Smylie spoke in favor of **HB 85**. Representative Smylie said this legislation addresses the Idaho Racing Commission's reporting requirements. In his research he found that there have been 64

articles written in the Statesman alone covering disagreements and problems in the racing industry. He feels that much of these articles resulted from the fact that the data included in the annual reports was at least a year old. He said the statistics are readily available and just need to be organized for the annual report.

Representative Smylie indicated that the proposed amendment to the bill makes it clear that the legislation calls for financial summaries, not audited financial statements. Also the term licensee has been narrowed down only to those handling financial distributions or operators of tracks.

He emphasized that this legislation is asking for the reports to be submitted in a more timely manner to help the industry move forward and be more accountable.

A Committee member asked how changing the reporting date will make the commission more responsive. Representative Smylie said he was trying not to make this punitive, but trying to help. In Title 54, Chapter 25 there is language that indicates failure to file reports on time is a misdemeanor for some groups, but it is not clear if this applies to the Racing Commission.

PRO

Mr. Frank Edmunds, President, Idaho Thoroughbred Association, said he wholly supports **HB 85**. There is a lot of information in the annual report that is needed by the racing community and the race tracks. For 2004's information they have to contact the Commission frequently which causes additional work. A lot of decisions need to be made based on the data from the previous year. He indicated that live racing concludes at the end of September and that there might be a few simulcast issues that cannot be addressed until the end of the year. He said the horse racing statutes are antiquated and need to be revised.

Ms. Ardie Noyes, Management Assistant, Idaho Racing Commission, spoke on behalf of the Commission. She informed the committee that every piece of information is available on a daily basis and the only piece of information they struggle to get in a timely manner is the purse information from the tracks. They are working with a group of volunteers which has helped, and they are only missing information from two tracks on the 2004 meets.

She explained that she will be leaving the Commission after 15 years. This will create a hardship because they probably won't fill behind her for quite some time because of financial issues. This will leave only two employees to compile the data. She asked them to keep in mind the fact that the legislative auditors request reports also.

When asked if they can withhold funds from the tracks that are not submitting their data in a timely manner, Ms. Noyes said they have tried.

The January 22, 2003 date used on the letter included in the 2003 annual report caused a great deal of confusion. Ms. Noyes clarified this was the date she started working on the report, not the date of the report.

Representative Smylie was asked if it would be feasible to allow the Commission six months to prepare the reports. He responded that it is now February and Ms. Noyes indicated that they are just waiting on two tracks

for data. The statistics are crucial for the early summer racing season and the object is to make them available when the racing season starts. This legislation is not trying to create a hardship, but to add transparency and accountability.

Mr. Edmunds said that by statute, the Commission does have the authority to withhold the funds if data is not provided.

MOTION: **Representative Snodgrass** made a motion to send **HB 85** to GENERAL ORDERS with Committee amendments attached. He said this legislation is needed if two racing seasons have passed before the reports are out. The motion carried by voice vote. **Representative Miller** seconded the motion. Representative Smylie will sponsor **HB 85** on the floor.

HB 107 **Representative Wendy Jaquet** spoke in support of **HB 107**. She stated that this legislation is patterned after Maine and Nebraska and proposes to change the electoral college. In Idaho each congressional district would designate one presidential elector and two presidential electors would be chosen at large. The at-large elector would cast his or her ballot for the presidential or vice-presidential candidate who received the highest number of votes in the state. Each congressional district presidential elector would cast their ballot for the presidential and vice-presidential candidate who received the highest number of votes in his or her congressional district.

PRO **Dr. David Adler**, Professor, Idaho State University, spoke in support of **HB 107**, saying this legislation promotes fundamental fairness. He mentioned the Iraqi people standing in line for hours to vote and wanting to ensure their votes would count. This bill is not radical because the district plan was embraced by our country's founders including James Madison, James Wilson, Thomas Jefferson to name a few. The plan was in place until 1836 when the electoral college came into favor due to the selfish interest of the majority party.

The district plan would remedy problems, allow for competitiveness, encourage more participation, and attract the candidates to campaign in Idaho. The electoral college disenfranchises voters and does not reflect the will of the people. No one person's vote should count more than another persons.

The district plan is a scheme where voters' votes count and it would encourage the candidates to visit Idaho if there is a competitive district or two, putting Idaho on an even playing field. Idaho deserves this opportunity to make known its views and concerns. Idaho is taken for granted and ignored. The electoral outcome may not change, but there are economic, social, and political benefits under this plan. The district plan is preferred by the voters and it will remedy gross political inequities.

A discussion followed and Mr. Adler responded to the following questions and comments.

When asked what the percentage of voter turnout was in Idaho in the 2004 election, the response was about 75-80%. Under the district plan participation wouldn't necessarily be expected to be greater. A Committee member did not agree that voters are disenfranchised and that the votes cast for a losing candidate are not counted. Mr. Alder felt they

were.

Another member pointed out that Idaho hasn't had a swing district since at least 1966 and historically Idaho has cast their vote for the majority. Mr. Adler said this is not a reason to ignore political equality.

When asked if selected states adopt this plan, do we dilute Idaho's power, the response was to the contrary because even if 1 vote from a district would make a difference and could cause candidates to come court voters. All small state would have more impact.

PRO **Ms. Marty Durand**, Attorney, American Civil Liberties Union of Idaho, spoke in favor of **HB 107**. She said her organization is nonpartisan and they support this measure because of voter equality. The current system is undemocratic.

Representative Jaquet closed by saying the district plan is a fairer way to govern and this is a very important issue for the minority party.

MOTION: **Representative Smylie** made a motion to HOLD **HB 107** in Committee. Idaho had one of the highest voter turnouts in 2004, and by not being a swing state, Idaho was spared political ads every 3 minutes on TV. He disagrees that voters are disenfranchised – democracy work and the majority rules.

VOTE: The motion to HOLD **HB 107** in Committee passed by voice vote. Representative Pasley-Stuart asked to be recorded as voting "No".

HB 58 Chairman Deal said he had been informed by Representative Chadderdon that she wished to have **HB 58** (being held TIME CERTAIN until Tuesday, February 15) HELD in Committee because a solution was found to address the issues brought forth by this legislation.

MOTION: Representative Loertscher made a motion to HOLD **HB 58** in Committee at the request of the sponsor. The motion carried by voice vote.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 10:23 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 14, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Jones

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

Chairman Deal called the meeting to order at 9:01 A.M. with a quorum being present. The minutes of February 11, 2005 were reviewed.

MOTION: **Representative Pasley-Stuart** made a motion to accept the minutes of February 11, 2005 as written. The motion carried by voice vote.

Mr. Rich Hahn, representing Idaho Power, introduced **Ms. Colleen Ramsey**, Engineer, Idaho Power, and **Mr. Rex Blackburn**, Attorney, Blackburn & Jones.

RS 14989 **Mr. Rex Blackburn**, Attorney, Blackburn & Jones, spoke in support of **RS 14989**, stating he was retained by Idaho Power for the preparation of this legislation. This legislation has been developed based on input from the dairy industry and the electrical utilities. It establishes, for public utilities regulated by the Idaho Public Utilities Commission (PUC), a preventative action level for stray current or voltage which may affect dairy cows. It requires the PUC to develop and adopt a standardized protocol which includes the preventative action level for use by all persons and entities to measure, investigate and, if necessary, remediate stray current or voltage on dairy farms. Within six months of the effective date, the commission shall promulgate temporary rules and proposed rules.

Any party aggrieved by a determination of the commission may pursue a civil action in which Commission findings will be admissible and presumed valid. Civil actions against regulated utilities for damages due to stray current or voltage are limited to negligence. The legislation limits the time within which damage actions must be filed, and the time frame in which damages may accrue. It further requires timely notice of claims of damages to the regulated utility.

If the portion of stray current or voltage attributable to the utility's distribution system is 50% or less of the preventive action level, the utility is not responsible, and the commission shall issue an order that the utility provide adequate service. If the portion of stray current or voltage attributable to the utility's distribution system exceeds 50% of the preventive action level, the utility must take steps to remediate the situation and the dairy can seek

damages. The commission would then determine the adequacy of the utility's remediation efforts.

Mr. Blackburn clarified that the PUC has six months for the rule making process, but they will take preventative actions immediately. The public can participate in this process.

MOTION:

Representative Edmunson made a motion to introduce **RS 14989** for printing. He commended the industries for coming together on this issue.

A discussion followed. It was clarified that a dairy producer shall be limited to those damages which (a) were incurred by the dairy producer six months prior to the dairy producer's provision of notice to the utility and (b) were caused by that portion of the stray current or voltage attributable to the utility's distribution system. Claims against a utility for damages are limited to claims of negligence.

The process used in formulating this legislation included the PUC, other interested groups, and Mr. McClure and other representatives of the dairy producers. It has gone through six drafts, three of which addressed the concerns of dairy producers. The dairy community still has two concerns: (1) they do not want the PUC findings to be admissible in court; and (2) there is an issue as to whether dairy producers can bring evidence of stray voltage if it is not technical and scientific.

This issue is highly technical and requires a uniform set of rules to be followed when measuring the levels of current and voltage. If science changes, the PUC can modify the rules. The public can "weigh-in" on the rule making and they are free to take their own measurements and monitor the utility company.

On Page 2, Line 30, "utility" means an investor-owned utility under the PUC, not a cooperative or municipal utility.

Ms. Ramsey, clarified that harmonics are included in the analysis of stray voltage as described on Page 2, Lines 17-29.

VOTE ON THE MOTION:

There being no further discussion, a vote was called for on the motion to introduce **RS 14989** for printing. The motion carried by voice vote.

Chairman Deal welcomed the students from Bishop Kelly High School.

RS 14820

Mr. Roy Eiguren, Attorney, representing The Idaho Allied Dailies, spoke in support of **RS 14820**. The legislature directed that the Idaho Association of Counties, Association of Idaho Cities, the Secretary of State, the Idaho Newspaper Association and the Idaho Allied Dailies newspapers met to review existing public notice statutes. A committee was formed and met 12 times to update all of Idaho's public notice statutes to remove obsolete provisions, clarify intent, and provide consistency. These changes allow cities and counties to designate an official newspaper, and they raise the rate charged by the state's official newspapers for publication of public notices by 14 percent. The increase will be in two annual increase steps of 7% in FY 2005 and FY 2006. This legislation has the full support of the organizations who are listed on the Statement of Purpose.

A question was asked by a Committee member about the definition of "official". It was suggested that Page 19 and Page 66-67 may provide the definition. Mr. Eiguren explained that this legislation does not change the definition of a newspaper of general circulation and cities and counties can determine the official newspaper. Competing newspapers can file suit. When asked if there would be an opportunity for a newspaper to use the term "official" to gain an edge, Mr. Eiguren said "no".

MOTION: **Representative Edmunson** made a motion to introduce **RS 14820** for printing.

SUBSTITUTE MOTION: **Representative Pasley-Stuart** made a substitute motion to hold **RS 14820** TIME CERTAIN until February 22, 2005. She explained that this will allow time for concerns about this legislation to be addressed. The substitute motion carried by voice vote. **RS 14820** will be held for TIME CERTAIN until February 22, 2005.

RS 14676 **Representative Tom Trail** introduced **RS 14676**. This issue was brought to his attention by Lu Jane Nisse, Editor, Latah Eagle, a newspaper serving Latah County with a circulation of about 2,200. The major competing newspaper is the Daily News with a circulation of about 7,000 and serves both Latah and Whitman (Washington State) Counties.

Small community weekly papers have always been the glue that holds the small community together. One of the opportunities for a small newspaper to garner revenue is to print the legals for the small town in which they reside. The law in Idaho has made that possible, but with the rapid influx of technology and easier transportation, the opportunity for advertising in one small town is minimal. Small papers are taking on several small communities in order to stay in existence. The Latah Eagle resides in Moscow but is servicing the outlying communities more than Moscow.

The suggested changes on Page 1, Lines 31 and 32 would provide a fair chance to all newspapers. The Attorney General's office has looked at the legislation and found no problems with it. It simply gives the local town the opportunity to select the paper with the largest circulation in their area.

MOTION: **Representative Smylie** made a motion to hold **RS 14676** for TIME CERTAIN until February 22, 2005 to allow the ideas in this legislation and in **RS 14820** to be combined. The motion carried by voice vote and **RS 14676** will be held until February 22, 2005.

RS 14837 **Dr. Cliff Green**, Executive Director, Idaho School Boards Association, spoke in support of **RS 14837**. This legislation provides that discussions which take place in an authorized executive session of a public body remain confidential. Examples given were: executive sessions concerning personnel matters, real estate decisions, and discussions with an attorney. A district trustee actually handed out copies of information in an open session that was discussed in a closed session.

This legislation was endorsed by the school trustees at their annual meeting. The trustees are willing to police their own and agreed to impose fines on themselves. Trustees who knowingly violate the provisions of this act shall be subject to a fine not to exceed \$500 for a first violation and not to exceed \$1,000 for each subsequent violation as a civil penalty. The civil

penalties awarded shall be deposited into the general fund of the public body concerned.

This legislation is supported by Idaho cities and counties, the Idaho Library Board, the Idaho Highway Board and insurance adjustors.

In a brief discussion, it was clarified that the existing law allows for confidentiality of executive sessions, and this legislation does not change the procedures for the process. Individual board member would pay the fine, the trustees voted overwhelmingly in favor of this RS, and all agencies who have publicly elected boards will be affected.

MOTION: **Representative Ellsworth** made a motion to introduce **RS 14837** for printing. The motion carried by voice vote.

RS 14859: **Mr. Patrick Collins**, Attorney, Hawley Troxell Ennis & Hawley LLP, stated he is representing the Idaho Health Facilities Authority. He introduced Mr. Neil **Moss**, Idaho Health Facilities Authority. Mr. Collins spoke in favor of **RS 14859**, explaining that the Idaho Health Facilities Authority is an independent public body politic and corporate of the State of Idaho and was created in 1972. It was created to facilitate financing for health institutions and otherwise promotes the health and welfare of the people of Idaho.

The purpose of RS 14859 is to provide statutory authority for county-owned hospitals and hospital-district hospitals to enter into interest rate exchange agreements. Interest rate exchange agreements are contracts under which an issuer of bonds can convert interest payments from a fixed rate to a variable rate, or vice-versa. Such contracts can be advantageous to a bond issuer by reducing borrowing costs and reducing risks. Interest rate exchange agreements (usually referred to as interest rate "swaps") are extremely common in private commercial financing transactions.

Statutory power from the legislature is required in order to enter into such contracts. Private non-profit hospitals can enter into interest rate exchange agreements under existing nonprofit corporation law. This legislation will level the playing field by allowing the county-owned and hospital district hospitals to avail themselves of this financial tool. The language in this legislation is similar to language used by other states.

MOTION: **Representative Smylie** made a motion to introduce **RS 14859** for printing. The motion carried by voice vote.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:50 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 15, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** Representative Ellsworth
- GUESTS:** Please see the Committee sign-in sheet and the presenters highlighted below.
- Chairman Deal** called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of February 14, 2005 were reviewed.
- MOTION:** **Representative Ring** made a motion to approve the minutes of February 14, 2005 as written. The motion carried by voice vote.
- RS 14916** **Mr. Chuck Goodenough**, Deputy Secretary of State, Commercial Division, spoke in support of **RS 14916**. This legislation allows The Secretary of State to refuse to file corporate names if they falsely indicate or imply affiliation with any form of government entity.
- It became apparent that a statute was needed when a man from northern Idaho tried using the corporate name of "Idaho Bureau of Investigation". The Secretary of State's office was able to "jawbone" the fellow out of filing under this name. This legislation will not be retroactive, so if there are corporate names currently being used that imply an affiliation to a government entity, some negotiating may be necessary.
- A Committee member asked if using the term "incorporated" would have been allowed under this legislation. Mr. Goodenough said "no" and that using either Investigation or Bureau would make it unuseable.
- MOTION:** **Representative Jones** made a motion to introduce **RS 14916** for printing. The motion carried by voice vote.
- Chairman Deal welcomed a group of students from Bishop Kelly.
- RS 14917** **Mr. Chuck Goodenough**, Deputy Secretary of State, Commercial Division, spoke in support of **RS 14917**. The trademark statutes were repealed and replaced in 1996. This legislation clarifies that a fee is required for each class code in a trademark renewal application. There are about 45 class codes and 250 trademarks with multiple codes. About 10% of trademarks are renewed per year. One renewal application is needed, but a fee is required for each class code. Federal trademarks are covered in Idaho.

MOTION: **Representative Black** made a motion to introduce **RS 14917** for printing. The motion carried by voice vote.

RS 14918 **Mr. Chuck Goodenough**, Deputy Secretary of State, Commercial Division, spoke in support of **RS 14918**. Mr. Goodenough showed the committee a sample "Idaho Annual Report Form". The Secretary of State requires each domestic and foreign corporation doing business in Idaho to file an annual report. He pointed out that this form is very simple in comparison to the forms required for publicly traded companies.

There are thousands of report forms filed each year, and allowing these forms to be filed electronically should be much more convenient for businesses. If sufficient numbers are filed electronically, it should reduce the workload and result in some savings. A lot of states are already doing electronic filing. A discount for electronic filing cannot be offered because Idaho does not charge for filing the annual report.

MOTION: **Representative Smylie** made a motion to introduce **RS 14918** for printing. The motion carried by voice vote.

RS 14678 **Representative Tom Trail** requested that **RS 14678** be postponed for a couple of days. Chairman Deal agreed to hold **RS 14678** until Representative Trail collects the information needed.

RS 14699C1 **Representative Tom Trail** spoke in support of **RS 14699C1**. This legislation relates to the election of highway commissioners. In small rural areas, these elections don't generate a great deal of interest. Since highway elections are district wide, in some areas all of the commissioners live in close proximity to one another. It is felt this could lead to partial decisions.

Representative Trail said he had worked with Stuart Davis, Idaho Association of Highway Districts, and the proposal was reviewed by the Board of Directors. The language on Page 1, starting on Line 38 provides that highway district commissioners may, with the unanimous agreement of the existing board of highway district commissioners or upon petition from at least 25 members of the district, adopt an alternative method of electing highway commissioners by subdistrict.

Representative Miller pointed out that the highway district in ADA county is divided into 5 districts. Representative Trail was asked to research how this was done prior to this legislation. Representative Smylie asked if 25 people in a highway district turn in a petition will that cause the adoption of an alternative method of election? Representative Trail it was his understanding it would be enough.

MOTION: Even though he has significant questions regarding this legislation, **Representative Jones** made a motion to introduce **RS 14699C1** for printing. He said he needs to know how many highway district there are in Idaho and how many are divided into subdistricts.

SUBSTITUTE MOTION: Representative Smylie made a motion to introduce **RS 14699C1** for printing with a change to the language on Page 1, Lines 38-43, that clarifies that 25 members of a highway district may bring a petition to the highway commission, but the district highway commissioners must vote on the petition. He said he has a problem with allowing just 25 people to influence a change.

Representative Garrett asked if it would be the highway commissioners or the county commissioners who would vote? She said she could not support this legislation if it reads the highway commissioners.

Representative Black said it should be the highway commissioners. They are a separate entity and not responsible to the county.

VOTE ON THE SUBSTITUTE MOTION: Chairman Deal called for a vote on the substitute motion to introduce RS 14699C1 for printing once the language is changed to clarify that 25 members of a highway district may bring a petition to the highway commission, but the highway commissioners must vote on the petition.

A show of hands was requested on the vote, and the substitute motion passed by a 10-5 vote.

RS 14867 **Representative Phil Hart** spoke in favor of **RS 14867**. This legislation relates to public record requests from any person who has a right to examine such public records. This legislation will allow for requests to be made in electronic form if information exists in electronic form. The identity of the requestor will be verified by the agency receiving the request.

Page 1, Lines 32 & 33 are being modified to clean up the duplicate language that occurred when two bills were passed in 1997.

MOTION: **Representative Snodgrass** made a motion to introduce **RS 14867** for printing. The motion carried by voice vote.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:28 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 16, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Edmunson

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

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of February 15, 2005 were reviewed.

MOTION: **Representative Loertscher** made a motion to approve the minutes as written. The motion carried by voice vote.

RS 14822 **Mr. Mark Benson**, Director of Public Affairs, Potlatch Corporation, spoke in support of **RS 14822**. This legislation will allow a business to voluntarily provide confidential financial information to a county assessor for the assessor to use in the process of determining the fair market value assessment of the property. Upon passage of this legislation, financial information being voluntarily provided will not be subject to public disclosure. This change allows for the use of an income approach to the value of the property.

Under current law, this type of information may be subject to public disclosure and therefore is withheld from the assessment process, which thereby inhibits full and complete value assessment of the property.

MOTION: **Representative Black** made a motion to introduce **RS 14822** for printing. The motion carried by voice vote.

RS 14782C2 **Mr. Mike Kane**, representing the Idaho Sheriff's Association, spoke in support of **RS 14782C2**. He explained that police agencies are quasi-military organizations, and County Sheriffs are the only elected law enforcement agents in the U.S. When a deputy sheriff runs against a sheriff who is running for re-election, it puts the sheriff in a tough position. If the sheriff has to discipline the deputy, the deputy can file civil rights actions against the sheriff. There were three tort claims filed during the last election.

This bill proposes that when a deputy sheriff chooses to run against a sheriff who is running for re-election, the deputy must take a leave of absence from his county position until the election is over. This applies only to county sheriff's deputies and would have no application to any other positions in the state.

Mr. Kane provided the following responses to questions and concerns voiced by the Committee members:

- retaliation issues are covered under personnel policies, not within this legislation;
- the leave of absence would be unpaid leave, but the deputy would be assured his position back if not elected sheriff;
- it is the sponsor's understanding that medical insurance would continue;
- this legislation applies to deputy sheriffs who are sworn in and to jailers and applies as long as the sheriff and the deputy are both in the race;
- this legislation may discourage a deputy sheriff from running against the sheriff, but personal rights need to bend to ensure that discipline, confidentiality, confidence and trust are not diminished during the election; and
- mandatory language, i.e. "shall" rather than "may" was used to provide consistency in the statutes.

MOTION: **Representative Pasley-Stuart** made a motion to introduce **RS 14782C2** for printing. Representative Anderson stated he has reservations about this legislation because it doesn't eliminate the problem. The conflict would remain when the deputy returned to work.

A voice vote was called for and the Chair was in doubt. A division was called for, and by a show of hands, the motion to introduce **RS 14782C2** for printing passed by a 10 to 7 vote.

RS 14965 **Mr. Bill Roden**, representing Qwest Communications spoke in support of **RS 14965**. He explained that this RS is replacing HB 57. Following the printing of HB 57 two issues having merit surfaced and were incorporated into this RS.

First, a concern was raised that with the passage of this legislation, the telephone company could immediately move to increase rates. This concern is addressed in the bill, starting Page 3, Line 35 where it sets a 10% cap:

"the maximum price the telephone corporation may charge for stand-alone basic local exchange service, as defined in section 62-607A, Idaho Code, during the transition period, shall, in the first year of the transition period, be capped at a rate ten percent (10%) above the rate in effect at the time of the election. Thereafter, in each succeeding year of the transition period, the price cap shall be increased by an additional amount that is equal to the difference between the rate at the time of the election and the price cap established hereunder for the first year of the transition period. However, during the transition period, the price cap established herein shall in no event exceed the maximum basic local exchange rate that was in effect and authorized or approved by the commission for any telephone corporation...."

An example was given that if the rate increase was \$1.75 in the first year, that would be the price cap for each of the exceeding years, and rate increases couldn't exceed that cap.

Second, the Speaker suggested the change that starts at the bottom of Page 4 and pertains to the duty of the telephone company to customers relating to unauthorized charges by a third-party service provider. This section of code provides that unauthorized charges from a third-party service provider included on the telephone customer's bill by the telephone corporation shall be removed from the bill and a credit be given. This provision covers charges

during the six-month period prior to the customer's notification to the telephone corporation. The telephone corporation can then try and recover credited charges from the third-party service provider.

MOTION: **Representative Ring** moved to introduce **RS 14965** for printing. The motion carried by voice vote.

RS 14983 **Representative Elaine Smith** (30) spoke in support of **RS 14983**. She explained that this RS is similar to HB 83. The legislation authorizes the Parks and Recreation Board to provide for a reduction of no more than fifty percent of the fee charged for recreational vehicle camping, effective Monday night through Thursday night, for any senior citizen who possesses a valid federal "Golden Age Passport", or who possesses a special park pass issued by any state which similarly recognizes senior citizens. In response to a question, she clarified that the Golden Age Passport is available to those over 62, and there are other discounts available to those with disabilities.

There is no fiscal impact to the general fund, and it is not known at this time what the impact would be to the Idaho Department of Parks and Recreation dedicated fund accounts.

Representative Smith (30) asked that the legislation be printed and referred to Resource and Conservation Committee so both this bill and HB 83 can be considered.

MOTION: **Representative Jones** moved to introduce **RS 14983** for printing and to refer the bill to the Resources and Conservation Committee. The motion carried by voice vote.

RS 15004 **Mr. Dick Rush**, Vice President, Idaho Association of Commerce and Industry, spoke in support of **RS 15004**. He said he is representing businesses throughout Idaho who are required to obtain air pollution source permits. Idaho's permits are to conform with the federal programs established under the Clean Air Act. Recently, the U.S. District Court for the District of Idaho interpreted portions of the Idaho air rules in a manner which exceeds federal requirements. This legislation requires the Department of Environmental Quality to adopt rules that conform the state law to the Clean Air Act with respect to the scope of "regulated air pollutants".

Mr. Rush requested that this legislation be printed and referred to the Environment, Energy and Technology Committee.

MOTION: **Representative Stevenson** moved to introduce **RS 15004** for printing and to refer the bill to the Environment, Energy and Technology Committee. The motion carried by voice vote.

RS 14862C1 **Representative Darrell Bolz** spoke in support of **RS 14862C1**, stating this legislation involves a minor change to one of the pieces of legislation requested by the veterans. The current law, adopted in 1949 specified that damages, costs of suit, and attorney's fees were limited to \$250 for failing to give veterans preference. This legislation deletes that language.

MOTION: **Representative Jones** moved to introduce **RS 14862C1** for printing. The motion carried by voice vote.

- RS 14969** **Representative George Eskridge** spoke in support of **RS 14969**, stating its purpose of this legislation is to allow the Legislative Council to appoint a committee to study the subjects of energy, environment and technology. It merely continues authorization of the interim committee, but broadens the scope to deal with energy and technology and provides for a name change to be consistent with the new committee name.
- MOTION:** **Representative Stevenson** moved to introduce **RS 14969** for printing and to refer the bill to the Environment, Energy and Technology Committee. The motion carried by voice vote.
- RS 14854** **Representative George Eskridge** spoke in support of **RS 14854**. This legislation does not ask for additional funds, but allows the Division of Veterans Services the flexibility to use Endowment Funds division-wide for programs such as the Emergency Grant and State Veteran Cemetery programs. When the original legislation was adopted there was only one veterans home and now there are three. This change has been agreed upon in the Veterans world.
- MOTION:** **Representative Smith (30)** moved to introduce **RS 14854** for printing. The motion carried by voice vote.
- RS 14852** **Representative George Eskridge** spoke in support of **RS 14852**. Current code requires that benefits paid by the U.S. Department of Veterans Affairs for burial plot allowances are to be placed in fund 0211; however, the budget appropriation is in Miscellaneous Receipts and the Veterans Cemetery Maintenance Fund is a continuous appropriations. This legislation merely directs that these funds be placed in fund 0439, the appropriate fund for these receipts.
- MOTION:** **Representative Shepherd (2)** moved to introduce **RS 14852** for printing. She acknowledged the diligence of the sponsor. The motion carried by voice vote.
- RS 15007** **Representative Julie Ellsworth** spoke in support of **RS 15007**. This legislation provides authority to the Public Utilities Commission (PUC) to establish by rule minimum quality standards to protect the consumer. She feels that as other telecommunication legislation is considered that this issue needs to be on the table also.
- MOTION:** **Representative Shepherd (2)** moved to introduce **RS 15007** for printing. The motion carried by voice vote.
- ADJOURN:** There being no more business to come before the Committee, the meeting was adjourned at 9:44 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 17, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Telleria (Smylie), Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** Representatives Smylie and Ellsworth
- GUESTS:** Please see the Committee sign-in sheet and the presenters highlighted below.
- Chairman Deal** called the meeting to order at 9:04 A.M. with a quorum being present. The minutes of February 16, 2005 were reviewed.
- MOTION:** **Representative Miller** moved to accept the minutes as written. The motion carried by voice vote.
- Chairman Deal welcomed the students visiting from Bishop Kelly High School.
- RS 14841** **Chairman Deal** informed the committee that **RS 14841** would not be heard at this time. Additional information needs to be gathered by the sponsor. There were no objections.
- RS 15010** **Ms. Rayola Jacobsen**, Executive Director, Bureau of Occupational Licenses, spoke in support of **RS 15010**. This legislation amends section 54-507, Idaho Code, to clarify the requirements for barber colleges to allow consideration of training obtained outside of Idaho. Idaho is having difficulties in obtaining licensed barbers, because there are no barber schools in Idaho. The current legislation precludes those training out of state to get jobs in Idaho. This bill will allow barbers to be licensed in Idaho if they have training. She clarified that there are separate Boards, separate licensure, and separate legislation for barbers and for cosmetologists.
- This legislation will also allow consideration of all nominations for appointment to the Barber Board, as the barber association is no longer active. The Board has a vacancy right now and this will allow them to seek nominations and fill the vacancy.
- MOTION:** **Representative Snodgrass** made a motion to introduce **RS 15010** for printing and then refer the bill to the Business Committee. The motion carried by voice vote.
- RS 15011** **Ms. Rayola Jacobsen**, Executive Director, Bureau of Occupational Licenses, spoke in support of **RS 15011**. This legislation amends section 54-2411, Idaho Code, to limit reinstatement of cancelled drinking water

operator licenses to two years. This provision is a requirement from the Environmental Protection Agency (EPA). She explained that last year a bill passed bringing licensure for drinking water under the Bureau of Occupational Licenses. EPA is zealous in the protection of their funding so it is important to come into compliance on this matter.

MOTION: **Representative Miller** made a motion to introduce **RS 15011** for printing and then refer the bill to the Health & Welfare Committee. The motion carried by voice vote.

RS 15002C1 **Representative Mack Shirley** spoke in support of **RS 15002C1**. He reminded the committee that while he served on this Committee last year a bill pertaining to disclosure laws for academic research passed in Committee, passed in the House, and was then held in the Senate.

He emphasized this legislation addresses a topic much needed. Those who pay for good research want confidentiality and will look elsewhere to states that provide it – 25 states provide protection, including Oregon and Utah. Last year, BSU lost a substantial contract because of this issue. Under the leadership of Martin Peterson, University of Idaho, work has continued to make this legislation acceptable to those in opposition without compromising the bill.

Mr. Martin Peterson, University of Idaho, said he has spent time in the interim working with the entities who opposed this legislation because it was too broad and needed to be narrowed (Alan Derr, Idaho Press Club) and the Roy Eiguren, Idaho Allied Dailies). The scope was narrowed and attorneys from both sides were involved. Finally, they came up with legislation that everyone had input into and had signed off on. Primary things being sheltered are research and data. Entities from other interest groups will be at the bill hearing to lend their support.

Section 1, subsection 23, addresses a concern that there would not be an opportunity for the news media to find out basic information about a particular research project that is otherwise subject to public disclosure (the nature of the academic research, the name of the researcher, and the amount and source of the funding provided for the project). The exemptions from disclosure provided in subsections 20 and 21 apply only until the academic research is publicly released, copyrighted or patented, or until the academic research is completed or terminate.

MOTION: **Representative Edmunson** made a motion to introduce **RS 15002C1** for printing. The motion carried by voice vote.

RS 14894 **Representative Margaret Henbest** spoke in support of **RS 14894**, explaining that what is before you today is legislation that will replace the current methods of reporting agency performance measures. The intent is to generate information that can be used to improve state agency accountability and increase the ability of state agencies to assess agency performance. The Joint Legislative Oversight Committee studied this legislation and they are recommending it be adopted.

The legislation replaces current procedures and repeals code pertaining to performance measures. The new measurement system is more relevant for benchmarks and for measurable means of determining how well the money

is being spent to improve performance.

Page 2, Lines 19-27, state the purposes are to (1) improve state agency accountability; (2) increase the ability of the legislature to assess and oversee agency performance; (3) assist lawmakers with policy and budget decisions; and (4) increase the ability of state agencies to improve agency management and service delivery and assess program effectiveness. Section 3 outlines definitions, Section 4 describes the strategic planning, and Section 5 describes the performance measurement.

Significant changes are that agencies embark on strategic planning for at least 4 years and the strategic plan serves as the foundation for developing the annual performance. Five to ten key, quantifiable performance measures are defined rather than a large number of measures.

Another key element of this legislation is that the communication between the germane committee and the agency allows for more of a connection in what we need and what they need. Past performance measure may take some training on what a functional performance measure really is. It is much easier to count "beans" rather than quality of service.

Training will be needed by both the agency and the lawmakers, and the proposed training is outlined on Page 4. The fiscal impact comes solely from training. It is felt that it will not cost the agency more to replace current planning and performance measures.

Rakesh Mohan, Director, Office of Performance Evaluation, and Senator Keough, co-sponsor of the bill, were introduced.

The Office of Performance Evaluation did the preliminary draft of this legislation based on their evaluation of current measures. In the past, the performance standards have been given to all legislators and the executive branch, but there was no focal point. This legislation brings the germane committees into the loop - front and back-end review. JFAC is starting to see performance measures presented in their budget requests.

Representative Henbest requested that a small grammatical change be made on Page 4, Line 13. The comma after reported should be a period, the word provided should be deleted and the "T" on the should be capitalized.

MOTION: **Representative Jones** moved to introduce **RS 14894** for printing once the above corrections have been made on Page 4, Line 13. The motion carried by voice vote.

RS 14995 **Mr. Ken Harward**, Executive Director, Association of Idaho Cities and Bond Bank Board member, said he is honored to speak to legislation. He introduced Liza Carberry, Executive Director of the Bond Bank, Ron Crane, Treasurer, Eric Heringer, Investment Banker, Rick Skinner, Bond Attorney, Clint Smith assistant to Liza. All are willing to speak to bill or answer technical questions.

In November 2000, voters approved a constitutional amendment authorizing the Idaho Bond Bank Authority. In 2001 enabling legislation was adopted, and further refinements were made in 2002 and 2003. The Authority issues

bonds to assist municipalities in financing needed facilities at a lower cost to the taxpayers. Local entities can pool their debt together for less interest. Authority Board members are Representative Bill Deal, Senator Bart Davis, Lee Gagner, and John Sandy.

In December 2004, the Authority completed its first bond issue, assisting seven Idaho municipalities to save financing costs. Through this process they discovered some issues with the legislation, and eight cities were excluded because of these issues. If corrections are not made, many cities will be unable to take advantage of this Authority. The changes are consistent with why this Authority was created.

When asked why several cities couldn't participate, Mr. Harward said the flaw was that all had voter approved debt and general revenue debt. When asked "where are the Democrats on the Board", he said he didn't have an answer. Two Board members are selected by the Governor, one by the Speaker, and one by the Pro Tem. The Treasurer appoints the chair.

MOTION: **Representative Black** moved to introduce **RS 14995** for printing. The motion carried by voice vote.

RS 14992 **Mr. Ken Harward**, Executive Director, Association of Idaho Cities and Bond Bank Board member, spoke in support of **RS 14992**. In this legislation, the Bond Bank Authority is proposing to add a new section of code that would allow transfer of funds from the General Fund to the Bond Bank Reserve Fund. The purpose of this is to further reduce the interest municipalities pay for infrastructure borrowing. This legislation has been reviewed by The Division of Financial Management, and it doesn't obligate any state funds. It increases the bond rating for the state.

Mr. Harward pointed out to the new legislators that this opportunity is in place for their local highway districts or other municipalities to take advantage of, and they should contact Liza Carberry in the Treasurer's Office to obtain more information.

MOTION: **Representative Stevenson** moved to introduce **RS 14992** for printing. The motion carried by voice vote.

Mr. Eric Heringer, underwriter, was asked to briefly review the first bond sale. The seven cities that qualified got the same rating as the state, an AA3. After this first bond issue, Idaho's bond rating was upgraded to an AA2. The original bond bank transaction involved seven Idaho cities and saved them about \$250,000 in interest. With the proposed changes, a lot of other cities will benefit. They were able to help cities pay off their DEQ loans to get money back into DEQ to meet new requests. DEQ loans are well below market rate. Benefits were not only in interest, but reserve funds were freed up and made available.

HB 150 **Mr. Bob Corbell**, representing the Idaho Grape Growers and Wine Producers, spoke in support of **HB 150**. Starting in July 1995, a tax payable to the commission was levied and imposed on all grapes grown in Idaho, for the production of wine. The tax also applied to grapes purchased outside the state for the production of wine. Approximately 5% of this tax goes to operate the commission. The wine industry in Canyon County is in

excess of \$50 million dollars, and Canyon County benefits from this. A tax is allowed at the current rate of \$5 on each acreage and a current rate of \$5 a ton on imports. Each winery pays \$100 annually. Now we are seeing grape juice being imported, and this legislation will allow the grape juice to be taxed at \$5 a ton, the same rate Washington taxes our grape juice. All of the taxes collected amount to about \$5,000.

The other provision in this legislation pertains to the 5-member board. There is often a delay in reappointing board members, and two members terms can expire at one time. If there is a delay, they do not have a quorum to conduct business. This legislation is much like other commissions in that board members serve until replaced or reappointed.

MOTION: **Representative Snodgrass** moved to send **HB 150** to floor with a DO PASS recommendation. **Representative Jones** will sponsor the bill on the floor. The motion carried by voice vote.

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

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 18, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. There were no minutes to review. He thanked Sarah Dexter for her excellent work as Page for the Committee and wished her the best as she graduates.

RS 14787C1 **Mr. Bill Foxcroft**, representing the Idaho Primary Care Association, spoke in support of **RS 14787C1** and requested that it be printed and referred to the Health and Welfare Committee. This legislation amends Idaho Code to change the title of the Idaho Rural Health Care Access Program to the Idaho Primary Health Care Access Program.

This legislation also separates grants into two categories, system grants and service grants, and provides funding for both types. System grants are funds awarded for the purpose of recruiting primary care providers, telehealth projects, community development, and other activities determined to improve primary care in under-served areas. Service grants are awarded to increase access to primary care services or to create or augment existing services for uninsured or medically indigent patients.

MOTION: **Representative Black** made a motion to introduce **RS 14787C1** for printing and to refer it to the Health and Welfare Committee.

RS 15008 **Mr. Mike Henderson**, legal counsel for the Supreme Court, spoke in favor of **RS 15008**. He introduced Ms. Patricia Tobias, Administrative Director of the Courts. He explained that this legislation was worked on by Mr. Keller and local officials to simplify and update the procedures for identifying and summoning prospective jurors.

Currently, each county must maintain a master list of names compiled from voter registration lists and other sources. From this list, names are drawn for a master jury wheel, which is emptied and refilled at least every two years. This legislation would eliminate the intermediate step of the master jury wheel. Each county will maintain a master jury list, from which the names of prospective jurors will be randomly drawn. Counties would not be required to empty their lists every two years.

This legislation also permits prospective jurors to complete and return their qualification questionnaires by e-mail, fax or other reliable means of communication. Persons who are disqualified from jury service would be excused from serving for two years, or longer if warranted by the person's disability. Persons older than 70 could be permanently excused, but could be reinstated to the master jury list upon their request.

MOTION: **Representative Pasley-Stuart** made a motion to introduce **RS 15008** for printing and then refer the bill to the Judiciary and Rules Committee. The motion carried by voice vote.

RS 14996 **Mr. Jeremy Pisca**, Evans Keane Law Firm, representing the Idaho Speech-Language and Hearing Association, spoke in support of **RS 14996**. Hearing Aid Dealers and fitters are licensed under the Bureau of Occupational Licenses to fit and dispense hearing aids. Audiologists, if licensed under the same act, may also fit and dispense hearing aids.

This legislation repeals the Hearing Aid Dealers and Fitters Act and replaces it with the "Speech and Hearing Services Practice Act" and would include hearing aid dealers, audiologists and speech-language pathologists. Mr. Pisca has been working with Mr. Hales, Bureau of Occupational Licenses. The administrative procedures mirror current law. This legislation also sets forth the licensing requirements, defines terms and practice, and establishes the Speech and Hearing Services Licensure Board.

With the exception of audiologists who fit and dispense hearing aids, neither audiologists nor speech language pathologists are currently required to be licensed by the State of Idaho. Speech pathologists are onboard with this legislation.

MOTION: **Representative Garrett** made a motion to introduce **RS 14996** for printing and then refer the bill to the Health & Welfare Committee. The motion carried by voice vote.

RS 15014 **Mr. Kelly Buckland**, Executive Director, State Independent Living Council, spoke in support of **RS 15014**. This legislation is the result of efforts by a task force with members from the State Independent Living Council, Americans with Disabilities, the Human Rights Commission, businesses and several legislators. Mr. Buckland recognized several members who were on the task force including Pennie Cooper, Marilyn Sword, Roger Howard, Ken Harward, Leslie Goddard and Representatives Kathie Garrett, and Anne Pasley-Stuart.

This legislation takes the provision within the American's with Disabilities Act and incorporates them into the Idaho Disabilities Act (Attachment 1). This moves the jurisdiction under the purview of the Human Rights Act, which gives the agency a place to go to resolve complaints without having to go to the Justice Department. The legislation does not change the Federal rules that businesses follow.

Mr. Buckland requested this RS be printed so it could be brought back to the Committee for a full hearing.

MOTION: **Representative Garrett** made a motion to introduce **RS 15014** for printing.

She expressed what a privilege it was to work on the interim committee. The motion carried by voice vote.

RS 15003

Mr. Ken Harwood, Executive Director, Association of Idaho Cities, spoke in support of **RS 15003**, stating that he participated on a very large task force for over two years to develop this legislation (Attachment 2). The bill is lengthy because it unifies purchasing procedures that are scattered throughout Idaho Code and that pertain to all types of public works contracts, i.e. schools, highway projects, bridges, and state facilities. This unified system will serve the taxpayers much better and eliminate the frustrations of the public and the contractors under the current system, which has been in place for half a century.

Mr. David Bennion, professional engineer and Chairman of the task force, and **Mr. Michael Gifford**, Association of General Contractors were introduced as having played a key role in the development of this legislation.

In summary, this legislation was developed to serve the citizens of Idaho. Everyone will know the rules, it will make it easier for over 1,000 different entities to provide training, and it will help vendors and public works contractors. These changes will help qualified contractors operate in a competitive arena and provide the best products at the best price with the best results.

Mr. Bennion addressed the questions of whether this bill changes the licensing requirements, and whether a small, individual contractor would have to be bonded and go through the Board of Public Works. Mr. Bennion said it is not the intent of this bill to change the criteria for contract licensing. The bidding portion has been streamlined. There needs to be some level of protection on contracts over \$50,000. The threshold is set that projects costing \$10,000 or more require licensing.

MOTION:

Representative Miller moved to introduce **RS 15003** for printing and to refer the bill to the Business Committee. The motion carried by voice vote.

HB 149

Representative Frank Henderson, spoke in support of **HB 149**, which proposes to allow motor racing facilities the same opportunity to apply for a liquor license as is extended to race tracks and golf courses under section 23-953. The motor racing facility in Post Falls already has a wine and beer license. He addressed two questions raised at the print hearing: (1) licensing – this liquor license is not issued through a quota system, but is a special license reapplied for annually; and (2) drinking and driving – the present owner of sixteen years has had a beer and wine license, and there have been no incidences of careless dispensing.

This legislation will benefit more than one racing facility. The Post Falls Racing Track serves more than 176,000 attendees and may yield to Idaho some \$50,000.

PRO

Mr. Joe Dollefeld, Post Falls Motor Racing Track Owner, spoke in support of **HB 149**. This license would give them the opportunity to move into the 2000s. Sponsorships by large companies play an important part in this sport, and they would like to be able to serve liquor at their hospitality suites. Representative Hart referred to the question asked by Representative Smylie at the print hearing about mitigating measures being taken to prevent

someone from getting drunk and driving. He emphasized that they are very stringent on how alcohol is dispensed. Young people under the age of 21 are required to wear arm bands. He emphasized this track is enjoyed by family and corporate people.

MOTION: **Representative Anderson** moved to send **HB 149** to the floor with a DO PASS recommendation. Representative Loertscher stated he could not support this bill because they will be selling liquor to those who are driving. Representative Stevenson debated against the bill because it creates another special license. Representative Ring debated in favor of the bill because they are already selling wine and beer, and one can get as intoxicated as quickly on wine as mixed drinks.

VOTE ON THE MOTION: The motion carried by voice vote. **Representatives Loertscher, Stevenson and Andrus wished to be recorded as voting "no"**.

Chairman Deal took a few minutes to thank the Committee for their hard work and timeliness on all of the legislation brought before them this week. He said this is an excellent Committee. and he is really enjoying working with each of them.

Representative Blas Telleria thanked the Committee members for their courteousness and assistance this past few days while he served on the Committee during Representative Smylie's absence.

Adjourn: There being no more business to come before the Committee, the meeting was adjourned at 9:44 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 22, 2005

TIME: 8:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** None

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

Chairman Deal called the meeting to order at 8:06 A.M. with a quorum being present. The minutes of Thursday, February 17, 2005 and the minutes of Friday, February 18, 2005 were reviewed.

MOTION: **Representative Shepherd (2)** made a motion to accept the minutes of February 17, 2005 as written. The motion carried by voice vote.
Representative Ring made a motion recommending the approval of the minutes of Friday, February 18, 2005 as written. The motion carried by voice vote.

HB 61 **Chairman Deal** notified the Committee that the sponsor of **HB 61** has requested that this bill be held so several issues can be resolved.

Representative Jones moved to HOLD **HB 61** in Committee. The motion carried by voice vote.

RS 15033 **Representative Jones** spoke in support of **RS 15033** and requested that it be introduced and referred to the Business Committee. He showed a pitless adaptor, explaining briefly how it is installed by a plumber and how it operates. This should be a sealed connection and if not properly installed will lead to contamination. Current law requires that pitless adaptors are to be inspected by the Department of Water Resources. This legislation would allow a licensed plumber to inspect these adaptors.

MOTION: **Representative Smylie** made a motion to introduce **RS 15033** for printing and to refer it to the Business Committee. The motion carried by voice vote.

RS 14676 **Representative Tom Trail** spoke in support of **RS 14676**. He passed around copies of both papers in question. **RS 14676** amends section 60-106 and the changes on Lines 30-32 would allow the Latah Eagle to print legal notices. Idaho is the only state in the union that requires that legal notices be printed by the newspaper with the largest paid circulation in the county. This legislation will level the playing field and allow the local decision makers to decide where legal notices are printed. It is felt this legislation is in the best interest of the citizens in this area because they depend on their weekly newspaper to report on matters affecting the community.

The Latah Eagle is the legal paper for Potlatch, and small hometown weekly papers are very important. Citizens and businesses tend to have copies of the Eagle readily available.

PRO

Mrs. LuJane Nisse, editor and publisher of the Latah Eagle, spoke in support of **RS 14676**. Her and her husband publish two small newspapers, and have owned community newspapers for 25 years. Those in large communities do not always understand the benefits and services of community newspapers.

This bill will level the playing field for smaller papers to do legals. The current legislation prohibits mayors and city officials from deciding where notices are published. Mrs. Nisse was informed that there is no way to prove circulation without a high-level audit. City officials know about the circulation and the newspaper's connection with their communities. Rural papers are the best option for publishing legal notices. The price for legal notices is the same in either newspaper. The Latah Eagle meets the criteria for a legal paper and should be allowed to publish legal notices.

A Committee member asked "why legal notices are published". Mrs. Nisse explained that these notices are an integral part of freedom of speech, and no town can change a law or ordinance without notifying the public first through general circulation. Creditors also use legal notices.

A followup question was asked if citizens' access to information would be more difficult if there are several small newspapers printing the legal notices rather than just one source. Mrs. Nisse said it only makes sense to put legals that pertain to that community in the community newspaper or the newspaper of record. It would not make it more difficult.

MOTION:

Representative Jones made a motion to introduce **RS 14676** for printing. He said he subscribes to four different newspapers; two dailies and two weeklies. He indicated that this legislation is worthy of a discussion. The motion carried by voice vote.

RS 14820

Mr. Roy Eiguren spoke in support of **RS 14820** on behalf of Idaho Allied Dailies and its various papers serving Idaho. In 1999, the legislature, through intent language, directed the Idaho Association of Counties, Association of Idaho Cities, the Secretary of State, the Idaho Newspaper Association, and the Idaho Allied Dailies newspapers to meet and review existing public notice statutes. These groups met 12 times during 2004 and early 2005 to conduct the first comprehensive review of all public notice statutes in the last two decades. This legislation is in essence removes obsolete provisions, clarifies intent and provides consistency.

This legislation also provides for an increase in the rate the state's official newspapers charge for publication of public notices by 14 %. An increase of 7% is proposed in two annual increases for FY 2005 and FY 2006. The 14% increase met no objections from local governments.

This legislation does not deal with section 60-106, that was mentioned in **RS 14676**. A legislative decision was made in the 90s that determined the qualifications of newspapers printing legal notices and determined the newspaper with the largest general publication would print required legal notices.

A Committee member commented on the substantial income newspapers derive from printing these notices, and that it appears this increase would impact private citizens as well.

Representative Pasley-Stuart asked if the issues had been addressed that prompted the RS being held last week. Mr. Eiguren said the issues were raised, but not resolved.

RS 14820

Representative Jones made a motion to introduce **RS 14820** for printing. The motion carried by voice vote.

Chairman Deal outlined how he planned to proceed with **HB 214**, legislation having to do with stray voltage. He said he planned to have Mr. Blackburn, Attorney for Idaho Power begin, followed by Mr. Howell, Public Utilities Commission (PUC), and then Mr. McClure, Attorney for the Milk Producers of Idaho.

HB 214

Mr. Rex Blackburn, Attorney, Blackburn & Jones and representing Idaho Power, spoke in support of **HB 214**. He began by providing some background information, and said he hoped to give the Committee additional information on the issues surrounding this legislation.

A certain level of stray current is a bi-product of compliance with Federal regulations adopted by the PUC. Idaho law requires that electrical sources be grounded for safety. The result of grounding is a return to its source a certain level of current. There have been some efforts to address the allowable level of stray voltage and to adopt lower acceptable levels. This would be inconsistent and unnecessary. It is impossible to eliminate low voltage entirely.

Concerns have been raised about levels of voltage in the last 25 years. Science has now identified that cows can be susceptible to low voltage. Existence of ground current is not an issue unless the cow comes into contact with two sources of differentials.

Connecticut and Wisconsin have established standards that are published in the Agriculture Red Book. This legislation adopts standards identical to those adopted by Wisconsin, and does not require remediation if the stray voltage is one-half a volt or less.

The particulars of the legislation were outlined:

- , Any dairy producer can provide a written notice to the utility if they are concerned that their dairy cows are being affected by any form or type of electrical energy.
- , Within fourteen days of receipt of such notice, the utility shall take measurements at cow contact points at the dairy producer's dairy to identify the existence and magnitude of stray current or voltage.
- , If that portion of the stray current or voltage at cow contact points is attributable to the utility's distribution system and exceeds 50% of the preventive action level of one volt, the utility shall, within five business days, diligently pursue remediation procedures to reduce that portion of stray voltage over 50%.
- , No remediation is required if stray voltage levels are less than half a volt.
- , A forum is provided for the dairy producers through the PUC. The PUC is obligated to determine if the utility company has done its job to remediate

the stray voltage issues.

The PUC's determination is a requisite to the dairy producer filing a suit. It is believed this process will solve most problems and eliminate court cases.

Within six months from the effective date of this legislation, the PUC is to promulgate temporary and proposed rules to establish uniform procedures and protocols for the measurement of stray current or voltage. Rules can then be changed by the PUC as science and technology changes.

These measures are proposed, not to address litigation, but to require a prompt notice to the utility and to provide a prompt investigation and require the utility company to remedy the stray voltage over half a volt. Other states having large litigations have taken the guess work away from judges and juries and placed it with experts at an administrative agency.

In support of the PUC having evidentiary power, it was pointed out that we see this in medical negligence cases, unlawful discrimination and dozens of other administrative areas. The PUC under chapter 61 already has the responsibility to determine that any utility is providing adequate and safe service.

This legislation attempts to resolve these issues at the administrative level before going to court, but does not deny the dairy producer their day in court, regardless of the outcome of the PUC findings. Some have suggested that the PUC favors the utility over the dairies, but the PUC will hear evidence from both sides before making their determination. The dairy can introduce their evidence and the individual data they collected. They can also monitor the collection of information by the utility and can challenge the adequacy of the information collected. In the case the PUC determines that the utility has exposed the dairy to more voltage than allowed, that evidence is taken to court and benefits the dairy. Findings of an agency and government reports are already admissible. This is not a novel concept, but favors both equally.

To encourage prompt notification, the dairy producer will be limited to those damages which occurred six months prior to the notice given to the utility company and end on the date of completion of adequate remediation.

This legislation is fair, reasonable, provides equal advantages, and provides a forum to resolve issues without going to court.

Mrs. Colleen Ramsey, Engineer, Idaho Power, briefed the Committee on what efforts Idaho Power has embarked upon since April 2004. They have built a program to be more responsive to dairy producers. Three workshops were held to get information out to the dairy producers, explaining how they can provide support, and about established company procedures.

Since Idaho Power began its program in September they have completed inspections at 400 of the 502 dairies in Idaho, have installed 6,000 ground rods to lower voltage, and have tested 13,000 grounds. They have spent about \$900,000 to date.

They are serious about this issue and concerned for their customers. Primary neutral voltage is an early indicator and early warning signal of problems at a dairy. They have found several instances where the stray voltage was higher than 1 volt and are prioritizing them so appropriate actions can be taken.

Ongoing programs are being established and load changes as customers come on line are being examined. Two stray voltage technicians will be hired.

CON

Mr. William Stouder, Veterinarian and representing the Idaho Dairy Association, spoke in opposition of **HB 214**. He said since becoming a veterinarian he has worked on many heard production problems and has encountered only one herd affected by stray voltage as a result of grounding at a dairy. He stressed how difficult and time-consuming it is to diagnosis the problem. Most dairymen will try resolving the problems themselves before calling a vet.

Mr. Stouder said he supports most of the bill, but he feels the bill should be withdrawn to allow for discussions between the utility and the dairymen. More study needs to occur on section 61-808, because his experience indicates it may take 12-18 months to diagnosis the problem. He doesn't agree that the PUC should have jurisdiction to determine if the utility complies, because this determination should be made by a qualified non-utility engineer. He also feels the PUC findings may determine the outcome of the court case.

Mr Stouder responded to the following questions:

How many times has it taken more than six months to determine diagnosis?
The case where stray voltage was involved took 12 to 18 months. Classic symptoms are nervousness and prancing, but that isn't always the case.

Under the provisions of this bill, couldn't the dairyman assume stray voltage is the problem and have Idaho Power come out and look at conditions? Your assumption might be correct, but this is not how a dairyman or a vet acts. There are so many things that can affect a herd, and stray voltage is not the first consideration.

Concern about PUC making determination? When PUC makes determination for or against it will be presumed to be the law of the land, and it will take extensive expertise to change that decision.

Don't understand why the six month time frame is inadequate because records are produced daily and would indicate if production falls off?
Dairymen will try and work through the problem by changing feeding programs and making other changes. It might be six months before a vet is called. In nebulous cases it takes a long time.

Do you service other dairies besides your own? While actively practicing as a vet, he monitored 35 herds and about 45,000 cows. Since retiring, takes care of about 4,000 cows for two clients and himself.

Is your organization working on educating dairymen to look at stray voltage?
There are joint meetings held all over the state and presentations are made, but you need to understand that stray voltage is not looked at first.

CON

Mr. Jim Stewart, dairy farmer from Kuna, spoke in opposition to HB 214. He explained he has been in business since 1939, and has 900 milk cows and 900 heifers. Mr. Stewart said he concurs with what Mr. Strouder said. He is concerned with the time frame, and whether we have the right process to continue. He talked about the problem of intermittent stray voltage and the

fact it can come from a neighbor's equipment. A neighbor may have a faulty water heater or motor that is dump an extra load of electricity. This bill is a step in the right direction, but it needs to extend the time frame.

In response to a question about calling Idaho Power when you first have a problem, Mr. Stewart explained that the mentality is not to look at stray voltage as the problem. Even if Idaho Power comes out and the problem is intermittent or seasonal, they may not be able to detect this on the first or second visit. Once you contact you have started the time clock, but how long will it run.

In response to a question about whether the tests conducted by Idaho Power are evasive and whether they stop the process, Mr. Stewart said they are not obtrusive to business, but a one-time trip will not find an intermittent problem.

CON

Mr. John VanderWoude, dairyman from Nampa and representing the Milk Producers of Idaho, spoke in opposition to **HB 214**. He runs about 250 cows and runs a milk testing lab. He has had a stray voltage problem on his dairy. It has not been his experience that you call Idaho Power and the job is done. They did install a neutral isolator, but neutral isolators are not the cure all. Two years later he still had a problem with six volts per ground. This legislation calls for no more than 1 volt of stray voltage, but after Idaho Power's work was done there was still 1-1/2 volts on his dairy.

He had a copy of his report from Idaho Power. He explained that the report doesn't say what the cow contact voltage was when they left, but it does recommend the feed handling equipment and manure handling equipment should be kept separated to minimize contamination of the feed with manure. He is not comfortable with turning this matter over to the PUC.

CON

Mr. Wayne Hawkins, representing the dairymen and the Milk Producers of Idaho, spoke in opposition to **HB 214**. Mr. Hawkins operated a milking equipment business for 25 years and installed a lot of dairies. He has two dairies of his own at Jerome and Wendell. In the early 2000s his dairy had a major outbreak of mastitis. He was one of the dairymen to spearhead putting in a neutral isolation system, and he stopped all of the Idaho Power ground at the road and created his own ground. He could steadily see a difference in the health of his herd, but it took about 1-1/2 years to correct. Stray voltage is a long, long process because it just keeps attacking immune systems – it is a long death sentence.

CON

Mr. Ken McClure, lawyer representing the Milk Producers of Idaho, spoke in opposition to **HB 214**. He apologized for not having a chance to talk to all of the members before the hearing. The Milk Producers of Idaho are an independent, voluntary organization where the Idaho Dairy Association includes all dairies. He stressed the seriousness of stray voltage and said that Idaho Power takes this seriously also. He referred to the court case in Magic Valley that asked for \$17 million in damages. He said this was a bad case and shouldn't have happened, and bad cases often make bad law. He asked them not to overreact. He did thank Idaho Power for coming forward in March in reaction to the suit.

The first time he saw this legislation was around December 20, 2004. He has exchanged several suggestions for improvement, but there are still issues that did not get resolved.

Mr. McClure stated he did not have a problem with setting a standard. There is a PhD in Idaho Falls who did his doctorate on stray voltage and he agrees this is a reasonable standard.

He does have a problem with the PUC determining whether the utility has taken proper remediation measures, and he has a problem with other methodologies being thrown out. In all other instances a jury makes this determination. Also, science and technology change, and he feels that evidence that is scientific valuable and reliable should be allowed. He was also concerned with the length of time it takes for negotiated rulemaking.

Another problem with the bill are the hurdles for those who believe they have a stray voltage problem. No other process requires going before a tribunal before going to court. There is a pre-trial procedure for the Human Rights Commission, but their determination is not admissible in court.

Mr. McClure pointed out the specific sections of the legislation he has problems with and said this doesn't provide for a fair, impartial hearing. Facts are presumed to be true and once decided, one can only recover damages for six months.

Page 3, Line 22 - The commissions order shall be binding... and Line 32, thereon shall be binding on the parties....

Page 4, Line 39 - any factual findings of the commission shall, subject to rebuttal, be presumed by the trier of fact to be valid. Lines 43-44 where damages are allowed only for a period six months prior to the provision of notice being filed. Line 50, damages due to stray current or voltage shall be limited to claims of negligence.

Representative Smylie asked if this legislation with amendments would be acceptable if the sticky points in Sections 61-808 and 61-809 could be worked out. Mr. Blackburn said they have looked at these two sections. There is no statute of limitation because this is a provision that requires nothing more than a notification. Dairymen would take advantage of what the statute offers. The cost of doing the evaluation is paid by the utility. The notice provision gives the opportunity to get something fixed.

Chairman Deal explained that the hearing on **HB 214** would continue tomorrow morning at 8:00 A.M. The Chairman respectfully asked that Mr. McClure and Mr. Blackburn get together this afternoon and see if they can come up with a solution. Look at sections 61-808 and 809. Mr. McClure said he has complained the loudest about section 61-803.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 10:44 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 23, 2005

TIME: 8:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting to order at 8:07 A.M. with a quorum being present. He asked Mr. Blackburn and Mr. McClure for the outcome of the conference held yesterday by those who care about this issue.

HB 214 **Mr. Rex Blackburn**, representing Idaho Power, said they took to heart the Chairman's admonition yesterday and worked together to eliminate the opposition to **HB 214**. He thanked Mr. Olmstead, Mr. Naerebolli, and Mr. McClure. He called the Committees attention to the amendments.

On Page 2, Line 36 the text added is lengthy, but the concept is that the PUC will be encouraged from time to time to review rules to make sure that state of the art science and technology is being used to remediate stray voltage (Attachment 1).

In Section 61-807, Page 4 – Lines 38-40 are deleted. This change will allow that the commission's order shall be admissible as evidence. The jurors will not be told by the court it is presumed to be valid.

On Page 4, Line 44, "six (6)" is deleted and "twelve (12)" is inserted, allowing damages that occur for a period of 12 months before the notice is presented to the utility.

Mr. Ken McClure, representing the Milk Producers of Idaho, thanked Idaho Power, saying this is not a perfect bill in either's opinion, but the Milk Producers have withdrawn their opposition with the adoption of the amendments. Chairman Deal said he appreciates their efforts, and they have solved a problem that the Committee had with this legislation. Mr. McClure said yesterday afternoon he felt like he had finished a marathon with the last half hour on his knees.

Mr. Don Howell, Deputy Attorney General, for the PUC explained he is standing in for Commissioner Paul Kjellander who had been called out of town. Mr. Howell said he had reviewed the changes and feels they are appropriate.

CON **Mr. Jarom Whitehead**, attorney from Twin Falls, spoke in opposition to **HB 214**. He said he was a little late in coming, but he will attempt to slow down

the train. He agreed with what Mr. McClure said yesterday about not making a bad case into a bad law. He said this is a bad law and doesn't warrant a "do pass" from the Committee.

Mr. Whitehead said he is currently defending a farm family from Buhl in a law suit against Idaho Power, and that the Vierstra case taught everyone what is going on and caused Idaho Power to change its practices. He described this case and how an electrician from Wisconsin determined that the problem was caused by stray voltage. A suit was filed and the trial lasted three months. Mr. Whitehead said he believes that Idaho Power knew that neutral grids could cause problems, but they withheld information. The jury awarded \$17 million in damages. Mr. Whitehead pointed out that this may seem like a lot of money, but an increase of 10-20 pounds of milk a day can result in millions of dollars.

He feels it benefits Idaho Power to put limits on the damages and not allow them to increase over a lengthy period of time. If the legislation goes through they know what they will be paying.

Representative Smylie asked about the \$17 million settlement, and Mr. Whitehead replied that he is not privileged to the cost of the litigation or to the settlement amount. The point was made that it would cost the claimant less to go before the PUC than to go to court. Mr. Whitehead said he doesn't see the benefit of going in front of the PUC, and that he wouldn't take a client if not paid by the hour.

Representative Loertscher asked Mr. Whitehead to talk about the affect of this legislation and whether it puts a set of standards in place that will prevent law suits from happening. Mr. Whitehead said this legislation allows Idaho Power to only suffer limited damages and creates a forum that limits the rights of individuals. He felt there were a lot of issues unresolved with this legislation.

When asked by the Chairman to quickly summate, he said the bottom line is where is the fire. There have only been three cases in Idaho. This legislation changes the rights of individuals for no apparent reason.

- PRO** **Mr. Sidney Erwin**, farmer-rancher from Bruneau, submitted written testimony endorsing **HB 214**. He encouraged that this legislation be viewed in the context of reasonable electric rates supported by minimal payouts due to judgments against the utility (Attachment 2).
- PRO** **Mr. Russ Westerburg** said he is not a trial lawyer but is here representing Pacific Corp. The problems this legislation is trying to address are not unique to Idaho Power. He said he believes the solution in front of the Committee is in the best interest of his customers. He appreciates the bill and recommends sending it to general orders with the amendments attached.
- PRO** **Mr. Dennis Tanikuni**, Assistant Director of Public Affairs for the Farm Bureau, spoke in support of **HB 214**. He said the Farm Bureau supported the bill in its original form because it creates a standard and has provisions for early notice.
- PRO** **Mr. Brent Olmstead**, Milk Producers of Idaho, represents the dairies and

associated businesses. He spoke in support of **HB 214**. He said he had learned more about electricity through this process than he ever wanted to know. He supports the amendments because they address the objections the dairymen brought forth yesterday. He appreciated the opportunity to meet with the utilities and find a solution to the problems.

PRO

Mr. Bob Naerebolli, representing the Idaho Dairyman's Association, spoke in support of **HB 214** with the amendments. He jokingly told the Committee how much Mr. Stouder enjoyed being here yesterday to answer all of their questions. With the negotiations that have gone on, the Dairyman's Association supports this legislation. He said the reason they are here is because of the law suit. He made clear there is not a lineup of producers waiting to file suit against Idaho Power.

Mr. Neil Colwell, registered lobbyist for Avista Corp. said his service area is from Grangeville north and they do have dairies in that part of Idaho. He said he support the legislation with the amendments.

MOTION:

Representative Loertscher made a motion to send **HB 214** to GENERAL ORDERS with Committee amendments attached.

Representative Smylie said it feels good to have worked through the issues and to be able to set up a process through the PUC without expensive litigation. In response to previous testimony, he said that litigations don't just punish Idaho Power but they punish the citizen's in that rate area.

Representative Andrus said he is disturbed about the 12-month time limit because damages can be occurring for a longer period of time. He said he would support this bill since the dairy people are willing to buy off on it.

Representative Jones said he knows more about this issue than he would like, and he also knows some of the parties involved. Setting ground rules is good state policy, and if all parties are agreeable, it needs to move ahead.

VOTE ON THE MOTION:

A vote was called for on the motion to send **HB 214** to GENERAL ORDERS with Committee amendments attached. The motion carried by voice vote. Representative Edmunson will sponsor HB 214 on the floor.

Chairman Deal took a few minutes to talk about a matter of protocol. He said once a vote is taken in Committee, if a member wants to change their vote, it is accepted practice to notify the chair and the sponsor. He said he appreciates those who helped solve the problems with this bill and getting the amendments put together.

ADJOURN:

There being no more business to come before the Committee, the meeting was adjourned at 9:07 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 24, 2005

TIME: 8:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** None

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

Chairman Deal called the meeting to order at 8:07 A.M. with a quorum being present. There were no minutes to review.

HB 224

Mr. Bill Roden, Attorney and Lobbyist representing Qwest Communications, spoke in support of **HB 224**. He thanked the Chairman and the Committee for the opportunity to discuss how this legislation was developed and to hear from those who have questions and concerns about the legislation.

He gave a brief history, explaining that in the 1980s he stood at this same podium and talked about deregulating telecom. When long distance services were deregulated in 1988, people said it would do great damage to consumers, telephone companies would increase prices, and it would be detrimental to the rural areas. None of the things projected came to pass. In those days, making long distance call was an event not a daily activity. Today companies are giving away functions and features.

When these statutes were written in 1913 and rates were regulated, companies were given a protected territory, but this right was abolished in 1997. Now companies can come into your area, make you provide the network, and not set up a business. They offer wholesale rates and compete without installing any infrastructure. Not in every area of the state will you find a company competing, but the market is wide open.

The basis of why HB 224 is brought to the legislature is to do away with unnecessary regulations and to protect rural areas. After HB 502 failed last session, Qwest took suggestions to heart and have had hours of discussions with legislators, interest groups and individual citizens throughout the state. They have tried to listen and accommodate citizens.

The highlights of HB 224 were reviewed.

Pg. 3, Lines 38--51 – No telephone company can increase its price more than 10% of the rate when the company comes under plan. Price could be 10% higher. Example would be that Quest's current rate is \$17.50 + 1.75. This is a true cap and doesn't require rate increase. The 5th year there is no

increase, if you have taken other increases. Mr. Roden said he believes the market place will not increase rates.

The transition period is set for three years, but Page 4, Lines 1-7 provide for a 2-year extended period. This provides a five-year time frame where the PUC will have oversight to regulate pursuant to caps

Page 4, Lines 28-36 address the concern that prices will be low in Boise, but increase in the rural areas. This provision does not expire at end of transition period. It guarantees that in no event can a telephone company increase rates in rural areas above the largest urban rate. Boise rate would set maximum rate.

Another issue that was addressed deals with the Universal Service Fund, a fund that helps keep rates low for small rural companies. If Quest increases their basic local exchange rate, that changes the average rate. Page 4, Lines 8-18 provide that no matter what rate changes, average rate July 1, 2005 will be statewide rate.

Another issue raised was from those with limited means. They do not want to be required to take additional features. Plain old telephone service (POTS) is a provision in this bill. This policy will continue unless changed by the legislature.

This legislation continues PUC authority of predatory pricing and extends the antitrust language on Page 5.

The last issue the legislation addresses that is not directly related to deregulation, deals generously with third party providers and billing. Some times unwarranted or unauthorized charges from third-party providers are placed on bills when customers didn't sign up for these services. This bill says if you encounter unauthorized charge, notify your provider and ask that these charges be removed. If you have paid charges you can require the company to go back for six months prior to notification.

Mr. Roden and **Mr. Jim Schmit**, President, Qwest, addressed questions and concerns:

One of the concerns from rural Idaho is there has been a recent increase in phone service rates. It was explained that the increases were not in basic service, but in auxiliary services. The concept of regulation was only to regulate base rates, not to regulate auxiliary services. Plain old telephone service will still be available. Auxiliary services on cell phones and over the internet are built into the service. Voice over the internet is available with unlimited features for as low as \$25.99. The rate is dictated by competition.

Constituents are nervous about the news items regarding the unsuccessful take over for MCI, fluctuation in stock, and former employees' misconduct. Mr. Schmit said some of these articles make him nervous too, but citizens' focus needs to be on Quest in Idaho. Anything Qwest can do to stabilize their financial security and strengthen their position in the market place is good. Qwest is a positive corporate entity in Idaho that invests in Idaho, pays taxes and gets involved. Focus on Qwest in Idaho.

PRO

Mr. Roger Madson, Director, Idaho Commerce and Labor, spoke in

support of HB 224, thanking Qwest for their service to Idaho. Qwest invests in our state \$1 million per week in infrastructure. Mr. Madson said he is not aware of any other company contributing to this extent. This legislation is healthy for economic development. Qwest operates four call centers in Idaho: Idaho Falls, Pocatello and two in Ada County. At the state level we need to help Qwest see Idaho as a good environment.

PRO

Mr. Woody Richards, Attorney and Lobbyist, representing Frontier Citizens, Century Telephone and Potlatch, spoke in support of **HB 224**. These three companies operate about 5% of the access lines in Idaho. Competition has come to rural areas with cell phones, cable and the Internet. There are five different cell phone companies operating in Idaho, and exchanges are showing no increases and are experiencing decreases in land line numbers. Decreases are due in part, because existing landline numbers can be transferred to cell phones. The PUC continues to grant more and more companies access to file price lists with the PUC, while the three companies he represents are under regulation.

Mr. Ken McClure, Idaho Telephone Association, stated he was not here to support or oppose **HB 224**. He represents the smallest of rural companies in Idaho that serve many left over areas such as Mud Lake and Albion. They are a cooperative telephone corporation that supplies service where no one else wants to. His company is unregulated and they give Qwest competition. Current statutes require Qwest to provide access.

He said this industry has outgrown the statutes they are regulated by, and the company he represents understands Qwest's request for regulatory relief. He reminded the Committee that if they get this legislation behind them there is another issue coming. There is much work to do and some things that don't make sense, because of regulatory burdens for small companies.

PRO

Elizabeth Criner, Consultant for Verizon, said they are a local provider and are in support of **HB 224**. Changes made to this bill were important to Verizon and helped them support this legislation, specifically the availability of POTS and the rural safeguard provisions. The 1996 Act created opportunity for different segments of technology. Everyone has various needs, and this bill allows for that and addresses competition. As you consider choice, you look at competition and where it has brought the competitive marketplace today. It brings benefits to rural territories that are usually the last to see this technology.

PRO

Mr. Steve Ahrens, President, Idaho Association of Commerce and Industry, spoke in support of HB 224. He said if we focus on the facts it will eliminate the concerns. He emphasized seven points. HB 224 (1) allows traditionally regulated companies to remove basic telephone service from government price regulation; (2) prohibits a company from requiring a customer to buy a package of services in order to receive basic service; (3) provides protection to rural areas; (4) provides a 3-year transition period where a government-established price cap is in place; (5) allows the PUC to extend the price cap an additional 2 years; (6) provides for continued PUC oversight of service quality; and (7) retains the Idaho Telephone Service Assistance Program (Attachment 1).

HB 224 creates what you might call a "light hand" of regulation to ensure

that basic telephone service is available and affordable.

CON **Ms. Anna Walling**, resident of Caldwell, made four points about HB 224 and asked that the Committee vote against the bill. She mentioned (1) Qwest's \$17 billion debt and the fact that they are making a bid to purchase MCI for over \$6 billion; (2) Qwest is giving lip service around the competition issue and saying that plenty of competition exists; (3) The Bureau of Labor Statistics report last fall demonstrates that "cell phone only" usage is lower for seniors, rural residents and homeowners than the 6.3% average cell phone usage of people in the West; and (4) This bill is not about cell phones, but about deregulation of the copper lines which provide us with our home phone and small business services (Attachment 2).

CON **Mr. Ron Matthews**, member of Idaho Community Action Network (ICAN) spoke in opposition to **HB 224**. Consumer protections under this legislation are inadequate. Laws already exist against slamming and third party billing. Qwest has been fined for slamming in other states. The 3-year cap is not consumer friendly or protective. What is good for Boise may not be good for rest of Idaho.

Telecom is changing and new services are available monthly. Deregulation is a bad thing and many other states have experienced this. Let the PUC do their job.

CON **Mr. Joe Moran**, member of Idaho Community Action Network (ICAN) spoke in opposition to **HB 224**. Mr. Roden is confusing the march for technology in lieu of profits. The primary focus of this bill is deregulation. It goes against the majority of citizens and provides a chance to charge more and increase prices. At the same time it allows Qwest to give less, poorer service.

Mr. Moran showed the Committee a copy of his bill with erroneous charges for long distance service. Has experienced innumerable billing errors. He had voice messaging two years ago and didn't get half of his messages. Look at history of Qwest in other states and be aware that deregulation prices will go up and service get worse.

CON **Dr. William Rainford**, legislative advocate for the Roman Catholic Diocese of Boise and Catholic Charities of Idaho, spoke in opposition to **HB 224**. Dr. Rainford said he is representing the official position of Bishop Michael Driscoll who urges you to oppose HB 224 because too many families in Idaho are economically fragile, despite the fact that most of them work. A telephone serves as a lifeline to these families. Deregulating telephone utilities will most assuredly lead to rate increases our low-income working families cannot afford.

Dr. Rainford asked them to consider a 65-year old widow who is caring for her epileptic son and has almost \$1,500 in medical bills a month (Attachment 3). He urged that the programs for low income families need protection and ask them to vote "no".

CON **Mr. Joe Bejsovec**, representing customers of Qwest and the Stop Qwest Coalition (SQC), spoke in opposition of **HB 224**. He is opposed to deregulation of Qwest because the monopoly of land lines is no different than the monopoly of distribution lines enjoyed by Idaho Power and other utilities. Given Qwest's past performance, the land line charges will be

abused. Qwest's justification for deregulation is all smoke and mirrors, and has nothing to do with land lines.

Qwest's service is rotten, and deregulation will not solve problems. SQC membership is opposed to deregulation of land line service and so were 60% of the respondents to the Statesman survey (Attachment 4).

PRO

Mr. Shirl Boyce, Vice President and president elect, Idaho Economic Development Association (IEDA) fully supports **HB 224** that will permit currently regulated telephone companies the opportunity to fully compete in today's highly competitive telecommunications marketplace.

IEDA is comprised of economic developers and communities – both rural and urban – and the continued investment and expansion of our current telecommunications infrastructure is crucial to growth and job creation throughout the state. IEDA asks for the Committee's strong support of this bill to give telecommunication companies the opportunity to provide a more competitive environment for our great state.

CON

Ms. Karen McWilliams, member of ICAN, spoke about the Lifeline telephone credit program that provides a \$13.50 credit for people at or below 133% of poverty. The money comes from a federal fund and a small charge on every phone bill in Idaho. In January 2004, there were 29,000 families in Idaho getting the Lifeline assistance and the number rises every year. Those families will get no extra assistance if the rates go up. A 10% increase each year will eat up the important benefit of the Lifeline program. Figures reflecting the income allowed for individuals and families who fall within the 133% poverty level are shown in Attachment 5.

CON

Ms. Emily Jones, resident living in Garden City, asked that the Committee vote no on Qwest. She has a land line telephone and cannot live without it because she has a pacemaker and can't use cell phone. There are others who can't make the leap to technology. Most important to her is her Lifeline service and she explained how this works. If you get in trouble you can push button around neck an alarm goes off. If you are not okay emergency services will be sent out. The lifeline only works with a regular land line phone. She is concerned she won't be able to continue her Lifeline if she can't afford to pay anymore for home telephone service. Don't take away PUC regulation – seniors need this protection.

CON

Mr. Dennis Tanikuni, lobbyist for the Farm Bureau, said his organization reached their decision late in the process. Their position is not to nullify Qwest and they have a great respect for Mr. Lodge and Mr. Roden. Farm Bureau's opposition is not anti business or Qwest. They are concerned about unforeseen consequences. Believe PUC provides certainty to rural customer base. A normal case before PUC can take six months.

When asked about them not taking a position on last year's legislation, Mr. Tanikuni said people were unhappy with them and they are opposing this legislation to protect rural market.

It was asked that if you notify competitors of an increase or decrease and it takes PUC six months, wouldn't this be a disadvantage to Qwest. About a 30-day timeframe is normal for an expedited process. Mr. Tanikuni agreed it would be a disadvantage.

PRO **Mr. Dirk Marsden**, Idaho citizen from Firth, Idaho. After the breakup in 1984, everything was deregulated except local service. Being in the telephone business he has seen technology escalate, yet the 1913 law is in place. He says he puts equipment in offices and then the competitor comes in. Lines are lost and customers and jobs are being lost.

Cell phones, cable are not playing by the same rules. This would make playing field even. The PUC will still oversee and rural rates are protected by lower rates in urban areas. Intent is let local providers have same benefit as urban.

CON **Mr. Stan Hobson**, citizen from Boise, spoke in opposition to HB 224. Pleased to provide testimony in opposition. The original deregulation request by Qwest in 2002 was premised on Qwest's contention that wireless service provided effective competition to seven local exchange service areas. The PUC ruled that effective competition was not shown by Qwest using Qwest's own data.

This legislation is an in run around the PUC and that is his basis of objection to bill. If since 2002 competition has increased and if technology has changed then go back to PUC with competitiveness again. Notice suits vs. opened collars (Attachment 6).

CON **Ms. Vera Conrod**, retired senior from Boise, spoke in opposition to HB 224. Her concern was that telephone companies have contributed to campaigns of members of the Committee.

CON **Mr. T. B. Lavoie, Sr.**, retired and representing himself, spoke in opposition to HB 224. He said no matter what people say, Qwest will get their way. He has problem with phone companies for 56 years and has fought on every jurisdiction. He is a property owner and has had many problems from US West selling maintenance insurance to tenants to easements. The PUC will have oversight if deregulation put through. How do you plan to protect the consumer.?

PRO **Mr. John Eaton**, Idaho Association of Realtors, representing 6,000 Realtors and they are in support of this legislation. This legislation allows Qwest to be regulated and protects customers. Expands ability to be competitive. When realtor is dealing with new customer they are asked about schools and high-speed services. This allows Qwest to be more competitive and get resources into Idaho based on competitiveness. Their clients can take advantage of these resources.

Mr. Jim Schmit, President, Qwest, acknowledged the issues raised and said he appreciates what has been said. Rather than rebutting he addressed service quality. Qwest has 1700 employees in Idaho who get up each day to provide the best service. Service quality is extremely important and he invited anyone to call him directly or email him.

After last session, he made a commitment that he would do three things: seek out and understand concerns, neutralize their gain in the industry, and achieve broad based support for this legislation. They feel they have achieved these goals. He feels good about commitment, balance and compromise. Their 1700 employees want the same opportunities of other

deregulated companies.

Mr. Schmit provided the following responses to concerns of the Committee:
– HB 224 makes clear that PUC retains authority of service quality and service quality to competitors. Consumers hold the penalty if we don't provide service – penalty is the customer moving to another company.

--Telephone service assistance is not touched by this legislation. It remains in place and will be available. If the price of basic rates get to the point that the level of help is not enough, it would be an area they would look at.

MOTION: **Representative Ring**, disclosed under Rule 38, paragraph C, that he has in a retirement account Qwest stock amounting to about 1/100th of one percent of his portfolio. **Representative Ring** made a motion to send HB 224 to floor with DO PASS recommendation. He said he has heard facts and suspicions and maybes from others regarding this legislation, and he heard the same in 1987 and 1988 when long distance rates were deregulated. His long distance rates have gone from 35 cents to 3 cents.

Representative Smylie declared he probably has less Qwest stock than Representative Ring. He spoke in favor of the motion and explained he had voted against the other two bills. There has been a lot of give and take, compromise, massaging of code to provide something that maintains protections.

VOTE ON THE MOTION: A voice vote was called for on the motion to send **HB 224** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representatives Loertscher, Ellsworth and Pasley -Stuart asked to be recorded as voting "NO". Representative Deal will sponsor **HB 224**.

RS 15057 **Representative Black** presented RS 15057 and explained that the earlier RS for public works contracting was revised with about 11 word smithing changes. RS 15057 will be referred to the Business Committee.

MOTION: **Representative Miller** made a motion to introduce **RS 15057** for printing and refer it to business committee. Motion carries by voice vote.

HB 222 Mr. Mark Benson, Director of Public Affairs, Potlatch Corporation, presented HB 222 and asked that it be sent to the floor with DO PASS recommendation..

This legislation is a fairly uncomplicated matter and Mr. Benson is not aware of any opposition. Property valuation is determined by comparable sales, income or actual cost. When using the income method of valuation, the county requires extensive information. Taxpayers are reluctant to provide this information with out protection from disclosure. The Idaho Association of Counties and Nez Perce County are in strong support of this legislation.

Mr. Benson clarified that this legislation has no implications for the tax commission because it references the county assessor, not the tax commission. Some discussions have taken place about whether the tax commission desires this kind of language. Utilities operate in a different climate and will run a trailer bill to address their needs.

MOTION: **Representative Ellsworth** made a motion to send **HB 222** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Edmunson will sponsor **HB 222**.

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

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** February 25, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** None
- GUESTS:** **See attached sign in sheet and presenters highlighted below.**
- MOTION:** **Rep. Miller** made a motion to accept the minutes of Tuesday, February 22, 2005, as written. **Motion approved by voice vote.**
- MOTION:** **Rep. Pasley-Stuart** made a motion to accept the minutes of Wednesday, February 23, 2005, as written. **Motion approved by voice vote.**
- RS14465C2** **Mr. Randy May**, Deputy Administrator, Medicaid Division of the Department of Health and Welfare, presented RS14465C2. This proposed legislation replaces two chapters in the current Title 39, the Statutes covering Idaho health and safety. Chapter 33 is the Idaho Board and Care Act and Chapter 35 is the Residential Care for the Elderly Act.
- These two chapters provide statutory guidance for two types of residential living options: Residential assisted living and certified family homes. 1) A residential or assisted living facility (RALF) is designed to provide a safe, home-like setting for adults who require some assistance with activities of daily living and personal care. These facilities range from four beds up to 135 beds. People who reside in this type of setting do not need the skilled medical services normally provided in a nursing home. 2) A certified family home provides more of a family-style living environment to support adults that cannot live alone. Typically, these are two or three bedroom settings that allow adults to live in their community and access community supports. These residents also typically need some assistance with activities of daily living.
- MOTION:** **Rep. Garrett** made a motion to introduce RS14465C2 and refer it to the Health and Welfare Committee.
- There were some concerns from the committee that there are issues with the legislation and they have not been resolved. It was felt that the stakeholders should get together one more time to try and resolve any problems. Mr. May said that he would be happy to commit to that.

The motion to introduce RS14465C2 being properly before the

committee a voice vote was taken. **Motion approved.**

Rep. Loertscher and Rep. Hart wished to be noted as voting NAY.

RS14887 **Ms. Susan Howard**, Gem County Clerk representing Idaho Association of County Recorders and Clerks, presented RS14887. Ms. Howard stated that whether we like it or not, the age of technology is upon us and it is difficult to do business without it. She said that there are sections in the Idaho Code, Chapter 24 requiring the County Recorder to keep records “in large and well-bound separate books” and to copy or reproduce “by microfilm” and to be filed in “suitable containers and cabinets.” This legislation adds terms like “scanned and digital imaging,” “electronic copying process,” and “electronic storage and retrieval system.” This change would give County Recorders the authority to keep up with the demands of increased workload, decreased storage space in our courthouses, and requests from our technologically advanced public.

MOTION: **Rep. Ellsworth** made a motion to introduce RS14887 and refer it to the Local Government Committee.

There was a concern that with information stored on discs they could become disabled or corrupt, and then all the counties information would be lost. Ms. Howard said that this hasn’t been addressed, but that they have backup copies; and they need to keep up with new technology.

SUBSTITUTE MOTION: **Rep. Smylie** made a substitute motion to return RS14887 to the sponsor.

Rep. Ellsworth said that she can see Rep. Smylie’s concerns, but we need to get this rolling.

A voice vote was taken on the substitute motion to return RS14887 to the sponsor. **Motion failed.**

VOTE ON ORIGINAL MOTION: A voice vote was taken on the motion to introduce RS14887. **Motion approved.** The bill will be referred to the Local Government Committee. Representatives Smylie, Miller and Hart voted Nay.

RS14796C2 **Ms. Susan Howard** also presented RS14796C2. This legislation is to enable the county recorder, upon approval of the board of county commissioners, to negotiate a fee less than the amount authorized in Section 31-3205 for copies of documents in excess of 100 pages or for copies of documents in electronic format. For those entities that have negotiated agreements, such existing agreements would not be affected by this change. This bill restricts any recipient from selling or transferring the records as official copies of county records. It also restricts anyone, other than the recorder as keeper of the records, from physically handling any recorded document. It further requires that each page be in legible typeface or no smaller than 10 point.

MOTION: **Rep. Smylie** made a motion to introduce RS14796C2 and refer it to the Local Government Committee. **Motion approved by voice vote.**

RS15058 **Ms. Bonnie Haines**, Senior Vice President Idaho Hospital Association, presented RS15058. This legislation would amend Title 66, Chapter 3,

Idaho Code which deals with hospitalization of mentally ill persons. The bill makes a technical correction to Section 66-320 and clarifies who in a facility can make the decision to detain a voluntary patient for the purpose of examination by a designated examiner. In addition, it sets forth in code a process whereby the designated examiner's application for continued care and treatment, which could potentially lead to commitment, is adjudicated in a timely manner.

The bill amends Section 66-326 to assist peace officers, who take persons into custody, determine whether such persons are in need of detention due to mental health issues. It also spells out who in a facility is qualified to assist in that determination. The bill strengthens the language which prohibits jailing of the mentally ill and requires the facility that detains such person to attempt to report information to the person's immediate family unless contraindicated by the circumstances.

MOTION: **Rep. Pasley-Stuart** made a motion to introduce RS15058 and refer it to the Health and Welfare Committee. **Motion approved by voice vote.**

RS15023 **Rep. Jaquet** presented RS15023. This legislation amends Idaho Code to further define terms and to provide regulation of and limitations on holiday Christmas tree fund-raises by the Lottery Commission.

MOTION: **Rep. Ellsworth** made a motion to introduce RS15023. **Motion approved by voice vote.** The bill will be referred back to the State Affairs Committee.

RS15037 **Rep. LeFavour** presented RS15037. This legislation is to enhance the accountability of companies receiving \$40,000 or more in Idaho corporate tax incentives, credits, and other state economic development expenditures. When enacted, this legislation will create a simple annual reporting process to the Department of Commerce and Labor that includes information on the number and type of jobs created, wages by category, part-time, full-time, and seasonal status as well as health care and other benefits offered.

There were some questions about the Fiscal Note saying there would be no impact on the General Fund who would pay for the statistical gathering that would need to be done. Rep. LeFavour said that this is already being done by the Department of Commerce and that there are fees assessed for failure to comply and submit reports.

MOTION: **Rep. Smith** made a motion to introduce RS15037 changing on Page 1, Line 33 and Page 3, Line 27, May 1 to Aug. 1.

SUBSTITUTE MOTION: **Rep. Smylie** made a substitute motion to introduce RS15037 with the two changes in the original motion, but also change the Fiscal Impact statement to more accurately reflect amounts this legislation would create.

Substitute motion was approved by voice vote and will be sent to the Commerce and Human Resource Committee. Representatives Loertscher, Andrus, and Hart voted Nay.

RS14699 **Rep. Trail** presented RS14699. This legislation relates to the elections of

highway commissioners. It amends Section 40-1305, Idaho Code, to provide for the election of highway commissioners by subdistricts.

MOTION: **Rep. Black** made a motion to introduce RS14699 and send it to the Transportation Committee. **Motion approved by voice vote.**

RS15035C1 **Rep. Eskridge** presented RS15035C1. This legislation establishes a statutory process for water/sewer districts to consolidate with city water/sewer systems. The legislation sets forth certain requirements that must be met prior to consolidation. Specifically, the city council and district board must be willing to consolidate; the city must have the capability to perform the essential functions of the district; provision must be made for the repayment of any debt, bonds, or other liability obligations not transferred to the city.

The district board is required to hold a hearing preceded by public notice, and an election must be held on the proposed transfer if desired by the district board or upon petition of 10 percent of the qualified electors of the district. Following passage of resolutions by the city and the district approving the transfer, the necessary documents are filed with the district court, which enters an order approving the transfer and dissolving the district.

MOTION: **Rep. Edmunson** made a motion to introduce RS15035C1 and refer it to the Local Government Committee. **Motion approved by voice vote.**

ADJOURN: Chairman Deal thanked the committee for their work this week in dealing with the issues that came before them. He said that the committee would meet at 9 a.m. on Monday.

There being no further business to come before the committee the meeting was adjourned at 10:10 a.m.

Representative Bill Deal
Chairman

Shani Murray
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 28, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Ellsworth

HB 218 **Chairman Deal** informed the Committee that **HB 218** would be held for one day until the amendments are ready.

S 1074aa **Chairman Deal** asked for unanimous consent to refer **S 1074aa** to the Ways and Means Committee. There were no objections.

HB 213 **Mr. Patrick Collins**, Attorney, Hawley Troxell Ennis & Hawley LLP, spoke in support of **HB 213** and asked that it be sent to the floor with a DO PASS recommendation. Mr. Collins was representing the Idaho Health Facilities Authority, an independent public body politic and corporate of the State of Idaho, created by statute in 1972. The Idaho Health Facilities Authority facilitates financing for health institutions and otherwise promotes the health and welfare of the people in Idaho. It accomplishes its goal by issuing bonds on behalf of healthcare institutions serving Idaho.

This legislation will allow county-owned and hospital-district hospitals to potentially reduce their interest costs on debt and reduce borrowing risk, by entering into interest rate exchange agreements. Interest rate exchange agreements are contracts under which an issuer of bonds can convert its interest payments from a fixed rate to a variable rate, or vice-versa. Such contracts can be advantageous to a bond issuer by reducing borrowing costs and reducing risk. Interest rate exchange agreements, usually referred to as interest rate "swaps" are extremely common in private commercial financing transactions.

Because such contracts are an obligation related to debt, political subdivisions require specific statutory power from the legislature in order to enter into such contracts. Private, non-profit hospitals already are able to enter into interest rate exchange agreements under existing nonprofit corporation law. This legislation would "level the playing field" by allowing the county-owned and hospital district hospitals to avail themselves of this financial tool.

Three examples were provided in Attachment 1 showing various types of interest rate exchange agreements. These agreements may only be entered into with a nationally recognized rating agency. This is not a financial tool that all county hospitals would use, but it would be a valuable tool for the larger hospitals.

Mr. Neil Moss, Executive Director, Idaho Health Facilities Authority, explained that there are approximately 31 county hospitals or hospital districts in Idaho that fall under this definition. Hospitals like St. Alphonsus and St. Joseph's can already use these agreements because they are private, not for profit hospitals. There are only 4 or 5 hospitals in Idaho large enough and with enough debt (\$10 million) to take advantage of these agreements.

PRO **Mr. Steve Millard**, Lobbyist for the Idaho Hospital Association, said his organization is in full support of **HB 213**. He clarified that there are 28 governmental hospitals in the state, and among those are Magic Valley, Kootenai, and Portneuf.

Representative Miller said she would like to declare under Rule 38 that her son is a partner at Hawley Troxell Ennis & Hawley LLP.

MOTION: **Representative Smylie** made a motion to send **HB 213** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Snodgrass will sponsor **HB 213** on the floor.

HB 219 **Mr. Chuck Goodenough**, Deputy Secretary of State, Commercial Division, spoke in support of **HB 219**. This legislation allows the Secretary of State to reject assumed business names where the names falsely imply they are a government entity. This legislation is not retroactive so they cannot go back and comb through the database to eliminate names, i.e. Farm Bureau.

He gave an example where a private detective filed under the name Idaho Bureau of Investigation. With help from the Idaho State Police and the Attorney General's office they were able to persuade him to use another name. Discretion will be used to apply this statute appropriately. There has been an administrative rule in affect since 1992 that prohibits the use of certain names, but it is felt this needs to be clearly stated in statute.

MOTION: **Representative Miller** made a motion to send **HB 219** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Miller will sponsor **HB 219** on the floor.

HB 220 **Mr. Chuck Goodenough**, Deputy Secretary of State, Commercial Division, spoke in support of **HB 220**. This legislation clarifies that if existing trademarks have more than one class code a separate fee is charged for each class code when they renew their application. A 1996 law allowed multiple class codes to be applied for on one application. This legislation will make it clear that a company with a trademark requiring three class codes would pay \$90 rather than just \$30 for one renewal application.

An industrial ventilation company is an example of an Idaho company having three class codes. The company sells chemicals and industrial equipment, and does building construction for vegetable storage.

It was clarified that the renewal application is a one-sided form that should take just a few minutes to complete. The advantage to having companies register multiple trademarks is because they are in essence multiple businesses and don't want anyone else using their trademark.

MOTION: **Representative Black** made a motion to send **HB 220** to the floor with a

DO PASS recommendation. The motion carried by voice vote.
Representative Black will sponsor **HB 220** on the floor.

HB 221

Mr. Chuck Goodenough, Deputy Secretary of State, Commercial Division, spoke in support of **HB 221**. This legislation permits the Secretary of State to accept and file annual reports, and it changes the report process so it is in line with other annual filings. Annual reports can be filed over the Internet. It is not certain how many people will be using and paper formats can still we used. Idaho does not charge a fee for filing the annual reports so it cannot offer a reduced rate for filing electronically.

Annual reports are used to identify the current officers, and agents or street addresses and may be used by lending institutions. These annual reports have no relation to annual reports of publicly traded companies.

When asked if a hard copy of the report will be sent as a reminder when due, it was clarified that a post card or some type of notice would be sent as a reminder, and if they company did not respond the database would notify them to send the actual report form.

MOTION:

Representative Smith (30) made a motion to send **HB 221** to the floor with a DO PASS recommendation. The motion carried by voice vote.
Representative Smith will sponsor **HB 221** on the floor.

ADJOURN:

There being no more business to come before the Committee, the meeting was adjourned at 9:44 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 1, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of February 25, 2005 and February 28, 2005 were reviewed.

MOTION: **Representative Shepherd (2)** made a motion to accept the minutes of February 25, 2005 as written. The motion carried by voice vote.

MOTION: **Representative Miller** pointed out that on Page 2, Paragraph 3 it should read that her son "is a partner at Hawley Troxell Ennis and Hawley LLP". The correction was so noted by the Secretary. **Representative Miller** made a motion to accept the minutes of February 28, 2005 with corrections. The motion carried by voice vote.

RS 15061 **Representative Tom Loertscher** presented **RS 15061** to the Committee, pointing out this bill is quite simple. It extends the time from three to five years for an individual to pay medical bills before becoming medically indigent. There are a lot of people who want to pay their own medical bills. It is estimated this legislation will save the county and the state approximately \$2 million, of which 60% would be county funds and 40% would be general funds.

MOTION: **Representative Stevenson** made a motion to introduce **RS 15061** for printing and to refer it to the Health and Welfare Committee. The motion carried by voice vote.

RS 15067 **Representative Stevenson** presented **RS 15067** to the Committee. This is a House Joint Memorial that memorializes to our Congressional delegation the economic impact to all of the state's industries, including agriculture. On Page 1, Lines 30-31 it refers to Idaho crops such as potatoes and onions that would be grown in place of sugar beets. Amalgamated Sugar just closed a plant in Oregon, because of the amount of sugar that is being imported.

Congressman Otter was recently asked how important these memorials really are, and he said they should be sent every year so they can be introduced and become part of the congressional record.

MOTION: **Representative Jones** made a motion to introduce **RS 15067** for printing and to refer the RS to the Agriculture Committee. The motion carried by voice vote.

RS 15068 **Mr. Tim Hurst**, representing the Secretary of State, spoke in support of **RS 15068**. He said the purpose of this legislation is to clear up the confusion that different states have created. Mr. Hurst reviewed subsections 5-7 on Page 2.

Subsection 5 provides that any voting system, including paper ballots, that was used in the 2004 general election will continue to be authorized for use as long as the voting system meets the requirements of the "Help America Vote Act of 2002". Subsection 6 specifies that direct recording electronic voting devices must have a voter verifiable paper audit trail. Subsection 7 authorizes the secretary of state to periodically review the various voting systems that have been certified for use. A voting system that does not meet such standards may be decertified after a public hearing.

This is good, clear legislation that will help instill voter confidence in the system.

Chairman Deal welcomed the secretary of state to the Committee.

MOTION: **Representative Miller** made a motion to introduce **RS 15068** for printing. The motion carried by voice vote.

HB 249 **Mr. Kelly Buckland**, Executive Director, Idaho State Independent Living Council (SILC), spoke in support of **HB 249**. This legislation is the result of work by a task force. Representatives serving on this task force were Representatives Kathie Garrett, Ann Pasley-Stuart, Debbie Field and Wendy Jaquet.

Mr. Buckland briefly went through the bill.

-- Page 1 adds language to include the policies embodied in Titles I and III of the Americans with Disabilities Act and defines "commission" as the commission on human rights.

-- Page 2 is cleanup language and page 3 adds the definition for "readily achievable" which means easily accomplishable and able to be carried out without much difficulty or expense.

-- At the bottom of page 3 language is deleted that no longer serves a purpose, and language is added to ensure that the commission members represent the diversity in the state.

– At the top of page 4 it adds language to make it a prohibited act to discriminate against a person because of a disability.

– Page 7 excludes governmental entities and religious organizations.

Mr. Buckland yielded to Representative Garrett who said it was her pleasure to work on the task force. This legislation was created to protect basic civil rights and guarantee access to those with disabilities. This legislation provides a local forum where complaints can be resolved and it does not add requirements for businesses.

She mentioned three people who inspire her in her efforts. They are Skip Smyser who was instrumental in seeing that the capitol has automatic doors, President Bush who is a strong advocate for those with disabilities,

and her husband who has a positive outlook and has overcome many barriers. This legislation is a small step and makes good sense. People with disabilities need our support.

PRO

Ms. Leslie Goddard, Director, Human Rights Commission, stated the commission's support. She thanked Kelly for the inclusive way he got this legislation put together. They were involved in the first draft, and Kelly went the extra step by coming to a Saturday meeting with the commissioners to talk to them directly and answer questions. This legislation does not mandate, but encourages, diversity on the commission. Members are appointed by the Governor.

Regarding the fiscal impact, she had to rely on sister agencies because the Department of Justice didn't respond to her request in a timely manner. Washington, Alaska, the Seattle Fair Employment entity, and the Oregon Bureau of Labor estimated about 5% of their caseload is due to disability discrimination. Using their figures and looking at the fact that Idaho had 56 cases over the last six years, she determined that 10-15 cases per year would amount to about \$20,000. When the jurisdiction changes there may be an increase in cases, but once you make an area accessible for one person it is accessible for many.

PRO

Ms. Marty Durand, Attorney for the American Civil Liberties Union, spoke in support of **HB 249**. She said many people may face temporary or permanent disabilities. Persons with disabilities have long been discriminated against. They have the right to an education, an integrated environment, vote and access buildings. This legislation is an important step in ending discrimination.

PRO

Mr. Mike Keithly, retired Marine living northeast of Cascade, is the former SILC chair. On his drive down he thought about why this bill means so much to him. His late son, Ian, had Cerebral Palsy and was in a wheelchair for 19 years. Ian was six when the Americans with Disabilities Act was passed and it was thought this act would help Ian more easily integrate into society, but there is a growing sentiment in business circles that the ADA doesn't have to be complied with.

HB 249 has one very simple principle, that of restoring the civil rights of people with a disability to have equal access to places of public accommodation. It also provides one central place where people with disabilities and businesses can go to seek mediation or enforcement.

The first three words of our constitution, "WE THE PEOPLE" concisely demands that all citizens are to be guaranteed the same and equal rights and liberties. Idahoans with disabilities need to be brought back into the fold of "WE THE PEOPLE".

PRO

Mr. Roger Howard, Executive Director, Living Independence Network Corp, explained his organization provides services in the Treasure Valley and in Magic Valley. This legislation includes those with disabilities to further prohibit discrimination. It also limits the requirements for businesses to those that are "readily achievable" and can be carried out without difficulty and expense. Time-consuming litigation is limited by using the dispute process through the Human Rights Commission. Provides a way to address local problems in a local way.

- PRO** **Mr. Jim Baugh**, representing Comprehensive Advocacy, Inc., said their mission is to provide legal services for those with disabilities and advocate for them. He has personal experience with disabilities within his own family. Nothing in this bill changes accommodations or access to commerce and industry beyond the federal requirements. He carefully scrutinized the language to ensure there is no greater obligation.
- He handles five or six complaints a year, and he would rather refer people to the Human Rights Commission because their method of resolution is very effective, neutral, and friendly. This legislation is a benefit for Idaho businesses.
- MOTION:** **Representative Garrett** made a motion to send **HB 249** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Garrett will sponsor HB 249 on the floor, and Representative Pasley-Stuart will be a co-sponsor.
- HB 218** **Representative Phil Hart**, presented **HB 218** to the Committee, explaining that this legislation adds a new section to existing code for public records. The language in the bill came out different than what was intended. Questions have been raised as to whether an agency would have to convert records to an electronic format.
- An amendment was prepared to address these concerns. On page 3 the reference to records being “converted to an electronic format using standard marketplace software” is being removed. Being inserted is language that requires the public agency or independent public body to identify the type of file or the format of the electronic record. Representative Hart read Idaho Code, Section 9-338 that identifies what public records are included. HB 218 does not change written records.
- CON** **Mr. Rod Leonard**, planner for Idaho Department of Corrections, said his agency can appreciate sending some records electronically. The Department deals with legal and very technical information and there are only some records they would be comfortable sending electronically. He expressed concerns about the impact of compatibility between systems, the conversion expenses, and the flexibility for agency discretion.
- CON** **Mr. Steve Walker**, State Archivist, Idaho Historical Society, and technical liaison for all state agencies, has heard from a number of people expressing concerns with this legislation. He was concerned about the cost to the agency. He showed the Committee a box of permanent records that were stored on numerous types of media and explained the cost of duplicating these items would be costly and special systems and software would be needed. The legislation needs to be reworked to take into account all different types of media.
- Mr. Walker clarified that they do not have any means of viewing most of the outdated media and would have to send it out of state.
- CON** **Ms. Linda Morten-Keithly**, Administrator, Idaho Historical Society, said she was standing in for Mr. Guerber who is out of town. She indicated that the amendment has helped to eliminate some concerns, but agencies must have the discretion to determine the best way to distribute records. These decisions should be based on resources, nature of the material, and the

associated costs.

Chairman Deal asked Representative Hart if he would have “heartburn” about getting together with these groups to further amend HB 218. He explained that this legislation is not intended to cover the types of media shown earlier, but agreed it is a good idea to work out the concerns. When asked what prompted this legislation, he said he has worked on lots of Freedom of Information requests, and the current state law is not up to date with technology.

MOTION: **Representative Jones** made a motion to hold **HB 218** for TIME CERTAIN until Monday, March 7, 2005. The motion carried by voice vote.

HB 226 **Representative George Eskridge** explained that at the time this statute was adopted there was one veterans home in Idaho and now there are three, plus the Office of Veterans Advocacy, and the veterans cemetery program. This legislation strikes the reference to veterans home and inserts the Division of Veteran Services to allow the flexibility to use Endowment Funds division-wide for programs. It does not ask for additional funds.

MOTION: **Representative Shepherd (2)** made a motion to send **HB 226** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Eskridge will sponsor the bill.

HB 227 **Representative George Eskridge** presented **HB 227**, saying that it is somewhat similar to the previous bill. Sections 65-107 and 65-202 require that benefits paid by the US Department of Veterans Affairs for burial plot allowances be placed in fund 0211. This legislation merely directs that these funds be placed in fund 0439, the appropriate fund for these receipts.

PRO **Mr. Joe Bleymaier**, Director, Idaho State Veterans Cemetery, spoke in support of **HB 227**, indicating that this is strictly a clerical cleanup. He put a plug in for the cemetery and invited the Committee to visit this beautiful site. They now have 14,000 people pre-registered to be buried at this site.

MOTION: **Representative Stevenson** made a motion to send **HB 227** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Eskridge will sponsor the bill.

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

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 2, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of February 24, 2005 and March 1, 2005 were reviewed.

MOTION: **Representative Ring** pointed out that in the minutes of February 24 on Page 7, Paragraph 4, the text should read 1/100th of one percent and the word "suspension" should read "suspicions". **Representative Ring** made a motion to accept the minutes of February 24, 2005 with corrections. The motion carried by voice vote.

MOTION: **Representative Miller** moved to accept the minutes of March 1, 2005 as written. The motion carried by voice vote.

RS 15049 **Former Representative Jim Kempton**, Idaho's Representative on the Northwest Water Council, spoke in support of **RS 15049**. He asked that this RS be moved to the Local Government Committee once it is printed.

This legislation amends existing law to authorize County Commissioners to adjust highway, cemetery, and fire protection district boundaries of coexisting districts affected by siting of an electrical generating property that utilizes wind and has a combined capacity greater than 10 megawatts.

Something that hasn't been looked at is the taxable high-value of wind farms and the potential tax dollar impacts with the 3% cap. New construction tax benefits, permitting upward adjustment of 3% capped district budgets, may be disproportionate between multiple districts established for coexisting highway, cemetery, and fire protection districts.

It was clarified that this legislation has been amended to address the issue of contiguous boundaries, and wind farms have been defined as those with five or more towers with a combined production capacity of 10 megawatts.

MOTION: **Representative Stevenson** made a motion to introduce **RS 15049** for printing and to refer the bill to the Local Government Committee. The motion carried by voice vote.

S 1023 **Senator John Goedde**, spoke in support of **S 1023**. This legislation is highly endorsed by the veterans. Last year when Health and Welfare "did their dog and pony show" and the Clean Indoor Air Act was adopted, it created problems for veterans homes. Veterans homes have smoking

rooms with equipment to reduce smoke and to keep smoke out of other areas. These areas are standing empty, and veterans are being forced outdoors. We have an obligation to veterans and owe them one of their last pleasures.

MOTION: **Representative Shepherd (2)** moved to send **S 1023** to the floor with a DO PASS recommendation.

PRO **Mr. Joe Bleymaier**, said he is out of his comfort zone recommending smoking when he is out at the veteran's cemetery. He said because the smoking rooms are fully vented, he definitely supports this legislation.

Representative Ring said he was one of the sponsors of the Clean Indoor Air Act and was involved in the rule making process. Their intent was that no one should be deprived of smoking in their home. These facilities are home for the veterans who live there. He is in support of this legislation.

VOTE ON THE MOTION; A vote was called for on the motion to send **S 1023** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Hardwood will sponsor **S 1023** on the floor.

RS 15079 **Mr. Patrick Collins**, representing Sun Valley Ventures, LLC, spoke in support of **RS 15079**. This legislation would allow a facility which has been operated as a golf course for 20 years to maintain its golf course liquor license following closure of the golf course. Plans are to convert this real property to a first class, five-star hotel. This would allow the highest and best use without having to give up a long-standing liquor license associated with the property.

Mr. Collins explained that the city of Ketchum only has 10 liquor licenses, and the last license was issued in 1996. The next person in line has been on the list since 1972. This legislation allows the existing license to be converted to another use and not be transferred from the property. If ownership would split later on, the license would stay with the property.

Mr. Collins asked the Committee to consider correcting two typos on Page 1 before introducing the RS for printing. On Line 25, "closure" should be changed to "termination", and on Line 41, the first word "were" should be changed to "was".

In response to a comment about the asking price of liquor licenses being as high as \$600,000 to \$700,000, Mr. Collins acknowledged that liquor licenses are a high dollar item and there are none available. In response to whether there have been any recent liquor license sales in the area, he said he was not sure but will find out. He clarified that the Warm Springs Restaurant will remain, and its liquor license is the golf course license.

When the question was asked if there have been special liquor licenses issued in the area, the Chairman responded saying there was a bill passed in Committee last year authorizing a special license for the Hemingway Hotel. Mr. Collins said a hotel lodging facility will be built on the golf course property estimated to have a taxable value of \$15 million. Because there will be a gap between the golf course terminating and the hotel being built, it is uncertain whether they can qualify under the legislation passed last year.

MOTION: **Representative Jones** moved to introduce **RS 15079** for printing once the word changes have been made, but requested that Mr. Collins bring back a map showing where this property is located. Representative Smylie voiced concerns about carving out special provision in the law, and businesses shutting down because of the value of the licenses.

The motion carried by voice vote. Representative Andrus asked to be recorded as voting "NO".

RS 14974 **Representative Margaret Henbest** spoke in support of **RS 14974** and requested that this legislation be referred to the Health and Welfare Committee once printed. This legislation proposes the creation of a pilot program to allow the state to establish the real costs and benefits of including mental health coverage in group health insurance coverage.

Those who are involved in community forums realize that care of the mentally ill is critical and fragmented care. Initial care is generally accessed through emergency rooms, the courts, Health and Welfare or a crisis center and consistent care by specialists doesn't occur.

The bill is a pilot project but doesn't mandate mental parity throughout the state. It will only target state employees and will attempt to deal with the issue of cost to an insured population if mental health insurance is covered. Several studies were cited that have provided information on the costs of mental health. It was found that while costs for mental health may increase, costs for substance abuse usually decreases. One issue for the pilot program will be absenteeism of employees. The Department of Administration prepared the fiscal note. This is a measured careful way to move ahead.

MOTION: **Representative Ellsworth** made a motion to introduce **RS 14974** for printing and to refer the bill to the Health and Welfare Committee. The motion carried by voice vote.

Representative Garrett declared under Rule 38 that her husband provides care to those with mental health problems. She strongly supports mental health parity at all levels. Many wait until they are very ill, making it extremely costly.

Representative Black said as a state employee and insured under the state health plan, this could be a conflict.

RS 15086 **Representative Donna Boe** spoke in support of **RS 15086** and asked that it be printed and referred to the Judiciary, Rules and Administration Committee. Human trafficking was discussed at the Foreign Policy Institute she attended two years ago. In 2000 the federal government passed the Trafficking Victims Protection Act, and at a 2004 national conference on trafficking, the Department of Justice asked states to develop anti-trafficking legislation. They provided model language that is reflected on Lines 5-26 of this legislation.

An informal study committee (Representatives Pasley-Stuart and Boe and an intern) got together with several groups to explore issues. A workshop was held at BSU, and the committee was joined by Representatives Debbie Field and Richard Wills, law enforcement officials and others to draft the

legislation. In talking with the Speaker, he suggested an interim committee.

MOTION: **Representative Pasley-Stuart** made a motion to introduce **RS 15086** for printing and to refer the bill to the Judiciary, Rules and Administration Committee. The motion carried by voice vote.

HB 237 **Representative Margaret Henbest** spoke in favor of **HB 237**. HB 237 is being presented on behalf of the Joint Legislative Oversight Committee and the Office of Performance Evaluations. The performance reviews being done are not using a performance measurement tool, and it is difficult to see how an agency is doing. These reviews are not being used by the legislators.

This legislation repeals the current code and replaces it with a new section that defines performance measurement in a different manner. It uses benchmarks and performance measures that meet industry standards. It retains some of the things the prior process required for strategic planning. Details about strategic planning are outlined on Page 3, Part 1.

Currently, agencies may be counting who comes through the door, but not the quality of the outcome of performance. This legislation limits the performance measures. Measures can be expanded by the germane committee, if needed. Page 3, Line 26 adds the requirement that data recorded has been assessed for accuracy and is deemed accurate. Page 3, Line 50 adds a report requirement that agencies will report to the germane committees at least every other year. Page 4 of the bill deals with the training requirements. The Division of Financial Management would direct agencies in performance and coordinate training. Legislators need to learn what to ask about quality outcome. Training requirements are reflected in the fiscal note.

The Division of Financial Management is concerned that the legislation may require from agencies information they are not able to give. They would like clarification. Representative Henbest asked that this legislation be held TIME CERTAIN until the exact language can be worked out. Also they are asking to delay implementation for one year until July 2006, allowing a better transition opportunity.

When asked if all agencies currently have strategic plans, it was clarified that the current legislation requires strategic plans from all agencies. A concern was voiced that some of the agency compute systems are outdated, making it difficult to provide information. Representative Henbest said this issue goes to the heart of the concerns expressed by the Division of Financial Management.

MOTION: **Representative Jones** made a motion to hold **HB 237** for TIME CERTAIN until Monday, March 7, 2005. The motion carried by voice vote.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:57 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 3, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Loertscher

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of March 2, 2005 were reviewed.

MOTION: **Representative Shepherd (2)** made a motion to accept the minutes of March 2, 2005 as written. The motion carried by voice vote.

RS 15044 **Representative Ann Rydalch** spoke in support of **RS 15044**. She said that throughout her years as a legislator she has tried “not to shoot from the hip”. This legislation is the result of requests from her constituents and was brought to her two years ago by several state entities. This is a potential or perceived problem and needs to be discussed.

This legislation would allow a department, agency, office, officers, board, commission, institution or other state entity to obtain its legal advice from an attorney at law other than the Attorney General. This is not a mandate, but an option.

When asked what the Attorney General said about this legislation, Representative Rydalch explained that two years ago she took similar legislation to the Attorney General’s office letting them know what was being proposed. That RS was widely distributed without her authorization. She did not approach them this time – she would just like this printed so it can be talked about.

MOTION: **Representative Smylie** made a motion to introduce **RS 15044** for printing. The motion carried by voice vote.

HB 240 **Mr. Ken Harward**, Executive Director, Association of Idaho Cities and a member of the Bond Bank Authority, spoke in support of **HB 240**. In 1999, Committee members may remember passing an appropriate action for a constitutional amendment to begin the process for creating the Municipal Bond Bank. In November 2000, voters approved the constitutional amendment and in subsequent years enabling legislation

has been passed (Attachment 1).

The purpose of the Bond Bank is to allow local governments (cities, counties, school districts, irrigation districts, sewer districts, water districts, highway districts or other special purpose districts or political subdivisions) to pool bond issues and thereby obtain cost savings on issuance costs and interest.

The first bond issue was completed last fall that helped seven cities refinance their DEQ loans. In the process of issuing the first bond, the bond attorney found that technical cleanups are needed. Several cities (Bellevue, Weiser, Council, Heyburn, Post Falls, Rexburg and Victor), wanting to participate in the DEQ refinancing, couldn't because of the nature of the voted authorization of their bonds. Thus, the reason for bringing **HB 240** today.

There is no fiscal impact to the state as a result of this legislation. If a local government would default on their loan, the state funds that are provided would be intercepted, if need be. The technical cleanup in this legislation insures that this happens.

Mr. Harward introduced Liza Carberry, Investment Manager and Idaho Municipal Bond Bank Executive Director, State Treasurer's Office; Clint Smyth, Investment Advisor, State Treasurer's Office; Mike Lewis, Financial Consultant, Seattle Northwest; Rick Skinner, Bond Attorney; and Brian Kane, Legal Counsel, Attorney General's Office.

Mr. Harward explained that because of their Aa2 rating, the Bond Bank is able to secure very low interest rates. In fact, the interest rates available to the Bond Bank are comparable to rates typically associated with Aaa-insured bonds. In general, borrowers to the Idaho Bond Bank do not need to incur the cost of funding a debt service reserve fund. An example is provided in Attachment 2 to show costs that local borrowers avoid by using the Bond Bank.

MOTION: **Representative Hart** made a motion to send **HB 240** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Deal will sponsor **HB 240** on the floor.

HB 239 **Mr. Ken Harward**, Executive Director, Association of Idaho Cities and a member of the Bond Bank Authority, spoke in support of **HB 239**. This legislation is a companion bill to **HB 240** and simply establishes a debt reserve fund to save up-front costs.

A new section would be added to existing code that would transfer funds from the general fund to the Bond Bank Reserve Fund. These funds would be invested, and the income earned from such investments would go back into the general fund. This transfer would be made at no risk to the State of Idaho. The use of the reserve fund is to prove credit worthiness.

Ms. Liza Carberry addressed Committee questions:

< *Not knowing about bonds, it looks like on the surface that the general fund would make a \$10 million loan to the bond reserve*

fund? The monies transferred to the reserve fund would be used for security to insure better interest rates and a better bond rating. The earnings that would have been earned will be the same as invested in the fund.

- < *Does this transfer reduce the amount of money in the general fund?* This transfer will technically lower that amount. A paper action will move this to the Bond Bank, not transfer it.
- < *How does the money get back to use in the general fund?* There is a provision letting the legislature take back the unpledged money. The bond bank doesn't want to ask for an appropriation. Long-term monies could be transferred and earnings would go back to the general fund. If an entity defaults, the Bond Bank would go after the municipalities to recover the money.
- < *Because the Treasurer can borrow money at a lower rate, is any of this money, money that was borrowed at a lower rate?* No, this is not money from tax anticipated loans.
- < *If there is a budget crunch in two years or so, how would we know what amount of money is available that is not pledged?* Every issue would be tracked to determine how much money has been used. The Bond Bank is designed to generate cash on its own. As fees are generated, it will give back the \$10 million.

Ms. Carberry explained that in her 20 years of working for the Treasurer's Office, she has never seen the idle funds go below \$400 million. The Bond Bank is asking for \$10 million of the \$400 million to be transferred to help get them going.

MOTION: **Representative Edmunson** moved to send **HB 239** to the floor with a DO PASS recommendation.

Chairman Deal asked the Committee members if they had other questions or concerns about this bill before voting. Representative Andrus clarified that with this legislation before us there is no risk to the state or the general fund and the transfer is just to allow for lower interest. The answer was yes.

VOTE ON MOTION: A vote was called for on the motion to send **HB 239** to the floor with a DO PASS recommendation. The motion carried by voice vote.

ADJOURN: Chairman Deal informed the Committee that tomorrow we will consider legislation on Academic Research and on the two newspaper issues. We will meet at 8:00 A.M. There being no more business to come before the committee, the meeting was adjourned at 9:32 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 4, 2005
- TIME:** 8:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** Representative Loertscher
- GUESTS:** Please see the Committee sign-in sheet and the presenters highlighted below. **Chairman Deal welcomed the Republican Women and acknowledged Former Representatives Diane Richmond and June Judd.**
- Chairman Deal called the meeting to order at 8:04 A.M. with a quorum being present. The minutes of March 3, 2005 were reviewed.
- MOTION:** **Representative Pasley-Stuart** made a motion to accept the minutes of March 3, 2005 as written. The motion carried by voice vote.
- RS 15096** **Mr. Michael Henderson**, Lead Counsel for the Supreme Court, spoke in support **RS 15096**. This legislation modifies the confidentiality provisions relating to the safe havens. The current statute states that a safe haven shall not inquire as to the identity of the custodial parent, and that, if the identity of a parent is known to the safe haven, that information shall be kept confidential.
- To comply with the Indian Child Welfare Act, this bill provides that the safe haven shall inquire as to the identity and residence of the child's parents, information relevant to the child's status as an Indian child under federal law, and any relevant medical history of the child. This information would be subject to the provisions regarding confidentiality contained in statutes and in the Idaho Administrative Code. This revision is intended to protect the privacy of birth mothers using safe havens, while providing for the gathering of information necessary for the court to insure that it is acting in the best interests of the child and in compliance with the requirements of the federal law.
- MOTION:** **Representative Stevenson** moved to introduce **RS 15096** for printing and refer the bill to the Judiciary, Rules and Administration Committee. The motion carried by voice vote.
- HB 238** **Representative Mack Shirley** spoke in support of **HB 238**. There is a need to protect research in the development stage and to protect the identity of the participants. The recent Idaho Bio-Science program gave information on the discoveries being made and the potential for future research. The collaborative efforts through the INEEL for a Research Consortium, that would include Idaho's 3 universities, are impressive.

The one drawback to future research efforts in Idaho is the lack of protection in place for premature release of research information. Hugh dollars are available through the research market, and exemption from disclosure will place the three Idaho Universities in position to compete for these projects.

PRO

Mr. Martin Peterson, representing the University of Idaho, spoke in support of **HB 238**. Since last session when similar legislation failed, a great deal of time has been spent working with those who had concerns about the legislation. He thanked Alan Derr, Idaho Press Club, and Roy Eiguren, Idaho Allied Dailies, for their willingness to work on this legislation. **HB 238** has the support of Idaho's three universities, businesses, and if not total support from the news media, at least major support.

The bill provides for several exemptions from disclosure, including:

1. Information where disclosure could reasonably affect the conduct or outcome of the research;
2. Records, data and information provided to public institutions is exempted from release unless provided by the public institution of higher education or a public agency;
3. Exemptions only apply until academic research is publicly released, copyrighted or patented or until the academic research is completed or terminated.

Basic information about a particular research project such as name of the researcher and the amount and source of the funding provided for the project are not exempt from disclosure.

PRO

Mr. Doug Gross, operator/owner of a diversified row crop farm in western Canyon County near Wilder, urged support of **HB 238**. Mr. Gross has been active in grower organizations for more than 20 years and is currently serving as Chairman of the Idaho Potato Commission.

The success of modern agriculture in Idaho is dependent on research. While research takes place at a number of different levels, the ultimate test of most research is dependent on field trials. Mr. Gross and his peers have cooperated with many researchers by opening their farms to a variety of research projects. Had he known the data from those projects could have been accessed by anyone filing a public records request, he would have been reluctant to offer his farm as a laboratory.

Four reasons were given for protecting the data during the life of the research: (1) the importance of continuing field-based research; (2) the importance of protecting the privacy of farmers and ranchers; (3) the importance of commodity groups and commissions who help fund research projects; and (4) the importance to the public so they are not misled by premature and inaccurate conclusions (Attachment 1).

PRO

Mr. Dick Rush, Vice President of Natural Resources, Idaho Association of Commerce and Industry, spoke in support of **HB 238**. He explained that he represents many companies who do support university research and has been involved with the University of Idaho, College of Agriculture Dean's Advisory Board for a number of years. The issues this legislation addresses never came up while he was on the Board, but the world is different now. An example was given involving Monsanto where the

research on the weed killer Roundup was compromised. Without confidentiality, there is no support for research.

- PRO** **Mr. Roy Eiguren**, Attorney, Givens Pursley LLP, representing the Idaho Allied Dailies, spoke in support of **HB 238**. He stood in opposition to this legislation last session because it was too all encompassing. He worked with the interested parties to draft this legislation, and he urged adoption.
- PRO** **Mr. Kevin Satterlee**, Vice President of Planning, Boise State University, spoke in support of **HB 238**. This legislation is very important to the universities and to Idaho. BSU's business school is recognized among the best in the west, and they were turned down for a large marketing research project because they were unable to guarantee information could be exempt from disclosure. BSU is struggling to develop academic programs, and research money from private companies could be used for the development. A major problem is that other states currently offer this protection.
- PRO** **Mr. Dennis Tanikuni**, Assistant Director of Public Affairs, Idaho Farm Bureau spoke in support of **HB 238** on behalf of agricultural businesses and business people who participate in research in Idaho and Oregon. They believe this legislation protects researchers and the public. This is good legislation, and they join in support for this bill.
- PRO** **Mr. Larry Branen**, Assoc. VP for Research and Outreach, University of Idaho, submitted written testimony in support of **HB 238** (Attachment 2).
- MOTION:** **Representative Jones** made a motion to send **HB 238** to the floor with a DO PASS recommendation. Like Mr. Gross, his farm has also participated in research, and he has also served on the UI, College of Agriculture Dean's Advisory Board.
- The motion carried by voice vote. **Representative Shirley** will sponsor **HB 238**.
- HB 256** **Mr. Roy Eiguren**, representing the Idaho Allied Dailies, spoke in support of **HB 256**. The key provisions of this legislation are (1) it updates all of Idaho's public notice statutes to remove obsolete provisions, clarifies intent, and provides consistency and (2) it raises the rate charged by the state's official newspapers for publication of public notices required to be published by Idaho law, by 14.2% in two annual increases of 7.1% in 2005 and 2006. This rate increase adjusts for the inflationary increases to average publishing costs since December 31, 1999, which is an estimated 15.8% among all the state's newspapers.

Page 67, Subsection 4 defines "newspaper of general interest" and establishes which newspapers can legally publish public notices for government and private entities. There was some confusion about this section of code voiced by Committee members, but this provision comes from current law that was adopted in 1994.

"The newspaper that is published within the boundaries of the political subdivision wherein the notice is required to be published and which newspaper contains local news and commentary of a general nature, and has the largest paid circulation among all newspapers published in that

jurisdiction as verified by the sworn statement of average total paid or requested circulation for the preceding twelve (12) months

In response to a concern about whether the County News, a weekly newspaper, would have to stop publishing legal notices under this new law, Mr. Eiguren said the newspaper that has the largest circulation among all published in that area would be allowed to publish legal notices – nothing in HB 256 changes this policy.

A concern was voiced that the term “newspaper of general interest” is not used throughout this legislation, but “official newspaper” is. Mr. Eiguren pointed out the language at the bottom of Page 66, Subsection 2.

“All political subdivisions shall designate by ordinance or resolution, a newspaper defined in this section as the official newspaper of the political subdivision for the purpose of printing legal notices as required or provided by law. Only a newspaper that qualifies as a newspaper of general interest within a political subdivision may be designated as an official newspaper of a political subdivision.”

CON

Mr. Rick Carpenter, Publisher, Idaho Business Review, spoke in opposition to **HB 256**, stating that he represents a 3,081 circulation weekly newspaper published in Boise for more than 20 years. The provision in the 1994 law (Pages 66-67, Subsections 2 and 4) that determines what constitutes a “legal newspaper” for the purpose of publishing public notice advertising creates an anti-competitive business environment, promotes monopolies and could eventually run the small newspapers in our state out of business.

Idaho and Kentucky are the only two states in the US that require legal notices be published in the largest circulation newspaper within the political subdivision. Mr. Carpenter provided his reasons for opposing HB 256 (Attachment 3). He closed by saying “Just as counties are asking to be able to choose a newspaper of choice, we believe that title companies and private citizens should be afforded the same right to choose which newspaper would be the best to publish their notices”.

The Idaho Business Review asked Rishi Hingoraney, Executive Director of the Public Notice Resource Center, to attend today’s meeting to offer a few remarks and answer questions.

Mr. Rishi Hingoraney, Executive Director, Public Notice Resource Center, informed the Committee that his organization is a non-profit organization representing all newspapers. He made it clear he is not here to endorse any one view.

Forty-two states have public notice laws pertaining to rates and eligibility. Most contain the following criteria: (1) have had continuous publication for 1-5 years; (2) contain certain percentage of news content; (3) have a 2nd class postage permit; (4) have the largest paid circulation; and (5) represent the geographical area of publication. Kentucky and Idaho are the only two states that use the largest circulation criteria.

Mr. Hingoraney clarified that about a third of the states set rates by statute and the others use a bid process or other means to determine. He was unable to give a percentage of government entity ads vs. private ads.

PRO

Mr. Bob Hall, Executive Director, Idaho Newspaper Association, spoke in support of **HB 256**. This legislation preserves a reliable, valid way of

selecting newspapers for public notices. The public notice process is costly and involves rivalry. HB 256 continues to provide public notice advertisers with the most economical and legally defensible way to decide between rival circulation claims of competing newspapers, within the boundaries of any Idaho county.

Mr. Hall's full comments are found in Attachment 4. He closed by saying that he believes this is the best update project of all of those he has seen in his 23 years in this job, and urged its full approval, without amendment.

Mr Hall addressed the following questions:

1. *If HB 256 is adopted into law, would a local title company be required to publish ads in one newspaper or could they publish in multiple newspapers?* With this legislation, options are not gained or lost, but remain the same. This falls under the "newspaper of general interest" requirements.
2. *What is the cost of an identical ad placed in the Statesman vs. the Idaho Business Review?* Each vertical column inch would be on the order of about \$2.00 per column inch, and the ad in question would cost about \$20 in either paper.

Mr. Larry Benton, Lobbyist, Idaho Land and Title Company, emphasized that title companies cannot arbitrarily raise rates, but must go through the Department of Insurance on any rate increases. Of greater concern, is protection of the system of choice in selecting a newspaper to publish legal notices.

There has been some confusion and misunderstanding about what the law is and has been since 1994. Because of this confusion, title companies have been able to do business with "basically a paper in town". The amount of money is substantial that a newspaper receives from title companies – they are one of the two largest contributors.

Amendments to this legislation are being discussed, and Mr. Benton would favor that the Idaho Business Review be allowed to continue publishing title notices, not the newspaper with the best advantage. He said he would leave this to the Committee's wise decision.

A question was asked about how allowing title companies to choose which paper they want to publish notices in serves the public? If each company chooses a different paper, the public would have to search through several publications. People don't always read the largest publication newspaper and competition should allow choice. Often people have to search for notices in the paper of largest circulation.

CON

Mr. Bill Roden, representing the Idaho Business Review, spoke in opposition to **HB 256**. A copy of the language in the 1994 session laws was provided showing where "newspaper with the largest paid circulation" was slipped in. The minutes of the House State Affairs Committee, March 18, 1994, indicate that Mr. Hall said, "This proposed legislation would amend the Idaho Code, further defining a "newspaper of general circulation" for the purposes of publication of notice by governmental entities. Mr. Tom Groty also testified that SB 1336 gave "a two tier test for where the government entities should publish" these notices.

Mr. Roden referred to Page 66, subsections 1 and 2 of HB 256 that state "... business or proceedings of a political subdivision shall be published in the official

newspaper of the political subdivision” and the “political subdivision shall designate by ordinance or resolution, a newspaper as defined in this section as the official newspaper of the political subdivision....” The way the bill reads, the City of Boise can designate the paper where private persons will publish their notices.

Mr. Roden offered two amendments (Attachment 6). Amendment A1 would maintain the paper with the largest paid circulation as the official newspaper for the political subdivision, but adds Subsection 8 to allow “...a newspaper meeting all other qualifications set forth in subsections (4), (5), (6) and (7) of this section shall not be required to have the largest paid circulation among the different newspapers published in the county.” Amendment A2 removes the largest paid circulation requirement altogether. Mr. Roden said either amendment has their support.

Mr. Roden provided the following responses to clarify questions asked by Committee members:

- Either amendment will address the concerns brought forth by Representative Trail in HB 255.
- The Idaho Business Review did participate in the task force, but this was prior to Mr. Carpenter coming to Boise.
- It is assumed, by an earlier question about citizens having to search various newspapers for public notices if title companies were allowed to choose the paper, that legal notices are published in the larger papers in a “Legal Notice Section”. This is not the case in the Statesman. This week legal notices were printed in the business section, the middle of the sports section, the editorial pages, and the obituary page. It appears they are treated as fill-in rather than a public notice section.

Chairman Deal said he has been thinking about all of the work that has gone into this legislation and is recommending that both HB 256 and HB 255 go to a subcommittee. It is hoped they can get the issues worked out with those involved and bring back a recommendation that everyone agrees with. Looking at the amendments, he was not sure which to choose. Mr. Roden and Mr. Eiguren both agreed this would be satisfactory.

Mr Eiguren was asked if JFAC has been appraised of the fiscal impact. He indicated that the Secretary of State’s office had been involved in the task force and would probably experience one of the largest increases. JFAC had not been contacted regarding the fiscal impact. It was pointed out that this would be an issue for the subcommittee.

Counties have already set their 2005 budgets and things are very tight. Would it be an option to defer implementation of this legislation until FY 2006 and FY 2007? This can be done, but the Association of Counties feels that counties have already taken this into account.

Representative Trail spoke briefly about HB 256 and HB 255. He presented comments from Ms. LuJane Nisse, publisher of the Latah Eagle (Attachment 7). She is asking that the statement “highest circulation in the county” be removed to open the way for towns, lawyers, schools to be able to choose the legal paper they know serves their area the best.

Representative Trail said the proposed amendments would be equitable, and he is willing to work with the subcommittee. He asked that HB 255 be

held in committee.

MOTION: **Representative Smylie** moved that **HB 256 and HB 255** be MOVED TO A SUBCOMMITTEE. The motion carried by voice vote. Chairman Deal will announce the members of the subcommittee at the meeting on Monday, March 7.

RS 15021C1 **Representative Stan Bastian** spoke in support of **RS 15021C1**. This House Proclamation recognizes two young people. Josie Nielson, an Eagle Middle School student and resident of Eagle and Trevor Barrott, a student at Kimberly High School and in Representative Leon Smith's district. Both received the 2005 Prudential Spirit of Community Award. Jodie volunteers at the Ronald McDonald House and will receive a \$2,000 prize for her award. She has decided to donate the money to help her community service activities.

MOTION: **Representative Ellsworth** made a motion to introduce **RS 15021C1** for printing and refer it directly to the Second Reading Calendar. The motion carried by voice vote.

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 9:38 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 7, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** None

GUESTS: Please see the Committee sign-in sheet and the presenters highlighted below. **Chairman Deal welcomed the students from New Plymouth High School.**

Chairman Deal called the meeting to order at 9:04 A.M. with a quorum being present. The minutes of March 4, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to approve the minutes of March 4, 2005 as printed. The motion carried by voice vote.

Chairman Deal announced that Vice Chairman Smylie will Chair the subcommittee to consider the newspaper bills. Representatives Ring, Snodgrass, Miller, Anderson and Smith (30) will serve on this subcommittee.

The task for the subcommittee will be to (1) narrow down some provisions to allow other newspapers to print public notices other than the "big" newspapers; (2) look at how/where newspapers print public notices to ensure easy access; (3) look at the rate structure and insure it is fair to public entities; and (4) look at short-term legislation to allow those papers currently printing notices to continue to do so.

Representative Smylie will announce when the subcommittee will meet, and is looking at Wednesday and/or Thursday morning.

RS 15117 **Representative Margaret Henbest** spoke in support of **RS 15117**, pointing out that this RS reflects the conversations and compromises with the Division of Financial Management and several agencies. Mr. Rakesh Mohan, Office of Performance Evaluation will provide the particulars of the negotiations.

This legislation replaces the current measurement system because it is not being used and is not relevant for setting policies and budgets. With this legislation agencies will give oral presentations to the germane committee and have the opportunity for ongoing dialogue with the committee. Prior language in the proposed bill set the key, quantifiable performance measures at 5-10. This revised RS allows for "not more than 10". This RS also provides for less detail for agency reporting and

changes the implementation date.

Mr. Rakesh Mohan, Office of Performance and Evaluation, explained that last week concerns were voiced that the language in the earlier bill was restrictive and not consistent. The following changes were agreed upon during the meeting with Mr. Randy Tilley, Division of Financial Management, and others.

- < Original language in several places said that “the germane committees will determine what type of measures are needed” and the change reads “the germane committees may request any changes to be made to the types of information reported”.
- < Original language read that “agencies will provide basic program information” and that has been changed to read “Part I shall contain basic profile information”. This would be background information about key programs or goals; overall performance of the agency.
- < Original language requiring 5-10 key, quantifiable performance measures has been changed to read “Not more than ten (10) key...”
- < Original language required that agencies will try to get senate and house consensus and the new language reads “The senate and the house of representatives germane committees should . . . and achieve consensus regarding the types of measures to be reported”.

Representative Henbest pointed out that on the Statement of Purpose, the fiscal impact should read that offering training will require approximately “\$20,000 every two years” not “\$10,000”. That change will be made to the SOP.

MOTION: **Representative Jones** made a motion to introduce **RS 15117** for printing. The motion carried by voice vote.

RS 15103 **Ms. Patricia Tobias** spoke in support of **RS 15103**. This legislation provides a statutory framework for mental health courts, much like the framework for drug courts. This legislation does not address the budget for the mental health courts.

Mental health courts are currently operating in Idaho in the 1st and 7th Judicial Districts. Communities are thrilled with the success of these courts because they are lessening the incarceration time and resulting in a cost savings. Judges are willing to expand to help make a difference throughout Idaho.

MOTION: **Representative Smylie** made a motion to introduce **RS 15103** for printing. Representative Ellsworth said she supports this legislation, but wants to ensure that the language on page 2 doesn’t undermine the legislation passed a couple of years ago that made it so you couldn’t use mental illness to avoid criminal punishment. Ms. Tobias said she believes the policy statements are very true and reflect what is found in current policy, but she will research this.

There being no further discussion, the motion carried by voice vote.

HB 228

Chairman Deal informed the committee that the sponsor of **HB 228** has asked that this legislation be rescheduled.

HB 218

Representative Phil Hart spoke in support of **HB 218**. This legislation will provide for the transmittal of public records in electronic form when requested by any person who has a right to examine such public record. Requests may also be made in electronic form. If the agency requires identification, this must be provided in paper form. Federal legislation was passed in 1996 to address this issue.

Members from the Department of Corrections and the Historical Society met last week and Amendment 2 was drafted to help address concerns. It inserts the following language:

“The public agency or independent public body corporate and politic shall identify the type of file or the format of the electronic record. In the event the electronic record cannot be duplicated by the public agency or independent public body corporate and politic, such agency shall offer to the requester (a) an alternative format; or (b) an estimate of the cost and time to have an exact copy produced by a third party vendor”.

To address concerns voiced by the Department of Corrections, two sentences were added to the Statement of Purpose.

“Redacted documents that exist in paper form shall not be considered an electronic record. Portions of electronic records which have no redactions shall be considered an electron record.”

The Attorney General’s office asked this morning to have another sentence added at the end of Subsection 11 that pertains to the receipt and delivery of records. Representative Hart said he is open to suggestions to achieve this capability.

In response to a question about who is responsible for contacting the third party vendor, Representative Hart explained that in his company he would have to call around and get the information and let the requestor know how much it would cost and the time it would take. It was asked why the requestor can’t find the third party vendor. It was clarified that when the Historical Society testified previously, they understood where they would need to go to recover the information.

Ms. Linda Morten-Keithley, Administrator, Idaho Historical Society, said they did participate in the amendment. The amendment covers many of their concerns. They do not have vendors who can retrieve all types of media. They are a repository for information from cities, counties, all state agencies. They still have concerns about the considerable amount of time and effort it will take to respond to these requests. There are still some concerns about security that deals with redaction. The Department of Corrections will address these. It was clarified that agencies cannot charge for the first two hours of time spent to comply with these requests.

CON

Mr. Brad Alvaro, IT Manager, Department of Corrections, spoke in opposition to **HB 218**. As an IT Manager and with all IT requests going through his staff, he said he has concerns about security, compatibility, management, resources, storage, bandwidth capacity, and training. Their agency covers the entire state, and he is concerned about the offices in other areas of the state being able to put together the information. It might require bringing in equipment to retrieve the data.

CON Attachment 1 contains written testimony from **Robin Wilson**, Secretary, State Historical Records Advisory Board, in opposition to **HB 218**.

MOTION: **Representative Edmunson** made a motion to HOLD **HB 218** in Committee. He said he respects the efforts that have been made on this legislation and it is an issue that needs to be addressed. With all the questions by the various agencies it seems everyone needs to get together over the summer. Representative Smylie spoke in support of the motion to hold this bill. He said this is a very complex, national issue, and the Historical Society is working on this.

A vote was called for and the motion to HOLD HB 218 passed by voice vote. Representative Hart wished to be recorded as voting "NO".

ADJOURN: Chairman Deal complimented the students from New Plymouth, saying they are the best dressed high school students we've seen this session. There being no further business, the meeting was adjourned at 9:45 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 8, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** Representatives Ellsworth, Loertscher and Snodgrass
- GUESTS:** Please see the Committee sign-in sheet and the presenters highlighted below. **Chairman Deal welcomed the students from New Plymouth High School.**
- Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of March 7, 2005 were reviewed.
- MOTION:** **Representative Shepherd (2)** made a motion to accept the minutes of March 7, 2005 as written.
- SCR 113** **SCR 113** will be rescheduled.
- RS 15114** **Representative George Eskridge** spoke in support of **RS 15114**. The goal of this legislation is to authorize the public utilities commission to approve certain cost reduction charges or rates as a method of financing or refinancing costs incurred by electric and gas utilities. This mechanism will accrue benefits to Idaho consumers through reduced utility rates. This action does not constitute a debt nor does it constitute a pledge. This request is beneficial to a regulated utility.
- In response to question about whether they had worked with the PUC on this legislation, Representative Eskridge said it is his understanding that the PUC is on board with this legislation. The legislation says they may or may not grant bonding authority.
- It was clarified that because this is a private investment fund, the bonds would be regular corporate bonds. Private utilities can use the previous energy authority.
- Mr. Neil Colwell**, AVISTA Corporation, asked that two minor changes be made to the RS before printing. On Page 2, Line 40 strike the word "natural". On Page 5, Line 54 strike "electrical company" and add "electric or gas corporation".
- MOTION:** **Representative Stevenson** made a motion to introduce **RS 15115** for printing. The motion carried by voice vote.
- S 1114** **Senator Hal Bunderson**, spoke in support of **S 1114**. This legislation is actually the work of Senator Elliott Werk. He discovered during the last

General Election that a county elections office refused to accept voter registration materials during the 24-day period preceding the primary election. This legislation clarifies that counties must accept voter registration materials at all times. Mr. Tim Hurst, Secretary of State's office, said this legislation does what most counties do in the state. This was discussed with the Ada County Recorder and they have no objection.

A concern was voiced about the county accepting the registration card during the 24-day period prior to the election and then the person is told when they come to vote that they are not registered. This creates problems. The response was to "tell them that their name is not on the book, and they can register right now". If a person registers during the 24-day period and then registers at the polls, the duplicate card is thrown away by the clerk's office.

S 1114 **Representative Ring** made a motion to send **S 1114** to the floor with a DO PASS recommendation. The motion carried by voice vote.
Representative Snodgrass will sponsor **S 1114** on the floor.

HB 283 **Mr. Tim Hurst**, representing the Secretary of State's Office, spoke in support of **HB 283**. This legislation came about because of confusion among states about valid voting equipment. The provisions added on Page 2 bring Idaho in compliance with the Help America Vote Act of 2002.

Any direct recording electronic or touch-screen voting device must print the voter's selection on paper for the voter to review before the vote is cast and recorded in the device. Accessible devices must be provided for sight impaired individuals. Thirty-one other states are proposing similar legislation. The accuracy of the touch screen devices has caused confusion. The requirement for a voter verifiable audit trail should instill voter confidence.

The language added on Page 2, Lines 14-18 provides that the secretary of state may periodically review the various voting systems to ensure such systems meet the standards set forth in federal law. Voting systems not meeting the standards can be decertified.

MOTION: **Representative Miller** made a motion to send **HB 283** to the floor with a DO PASS recommendation. The motion carried by voice vote.
Representative Miller will sponsor **HB 283** on the floor.

S 1125 **Senator Tim Corder** presented **S 1125**, explaining that this legislation came about because a need was expressed by members of both the Senate and the House. S 1125 has a sister bill that is headed this way, and he will be glad to come back and explain how that legislation helps in the efforts.

In the first three weeks of the session, most freshmen legislators were faced with what rules were, what the original intent of the statute was, and the gruesome, overwhelming task of deciding what precipitated the rule change.

This bill would amend Idaho Code to (1) require that an agency include in a notice of proposed rulemaking a citation to the specific section of the Idaho code that has caused the change and (2) require any rule change having a

negative fiscal impact on the state general account greater than \$10,000 be specifically described.

The language found on Page 1, Lines 26-29 protects the agencies and rulemaking process from the probability that impact statements are inaccurate. On Page 2, Lines 25-27, an emergency clause is added because we know agencies are adopting rules now and the impact statements have already been done. With this clause, they will know that next year the rules we see are under this statute.

Senator Corder responded to the following questions:

1. *Where did the \$10,000 figure come from?* This is an arbitrary number that is large enough not to bring court cases and small enough to not be egregious to the agencies.
2. *Why does the wording starting at the end of Line 25, Page 1, specify during the fiscal year when the pending rule will become effective? Why not subsequent years of fiscal impact?* Each statute may or may not have a fiscal impact, and this legislation is not addressing changes down the road. We are just trying to determine if the adoption of the rule causes a fiscal impact.
3. *What do you mean by "negative" as used on Page 1, Line 24?* Basically, this means an impact that costs the state money.

MOTION:

Representative Garrett made a motion to send **S 1125** to the floor with a DO PASS recommendation. As someone who has served on the Health and Welfare Committee she has experienced why this legislation is necessary. A lot of policy changes are made by administrative rule, rather than by statute, and this legislation will help us "get our arms around the budget". Fiscal impacts are often buried in the large budget submissions. This is one more tool to help monitor agency budgets. She encouraged support for **S 1125**.

A vote was called for on the motion to send **S 1125** to the floor with a DO PASS recommendation. The motion carried by voice vote.

Representative Ellsworth is a co-sponsor of the bill and will sponsor **S 1125** on the floor.

Chairman Deal informed the Committee that the Committee's work for this week will conclude tomorrow. The subcommittee will meet Thursday morning at 8:30 to look at the newspaper codification issues. The Committee will meet again on Monday morning.

ADJOURN:

There being no more business to come before the committee, the meeting was adjourned at 9:36 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 9, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Jones

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

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of March 8, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to approve the minutes of March 8, 2005 as printed. The motion carried by voice vote.

RS 15095 **Ms. Laura Steffler**, Chief Deputy Treasurer, Idaho Treasurer's Office, spoke in support of **RS 15095**, explaining that their office collects debt information from local municipalities. This legislation would modify the required information that is listed in code.

Information now being collected that would be removed from code would be bond counsel, financial advisor, underwriter information, and the coupon and yield to investor information. There have been only one or two requests for this information in the last 10 years. Information that is most often requested will be collected, simplifying the process for both the Treasurer's office and the reporting municipalities.

In response to a question about whether a person could still get this information, Ms. Steffler said they are confident they could get this information from other sources, i.e the Idaho Association of Counties.

MOTION: **Representative Smylie** made a motion to introduce **RS 15095** for printing. The motion carried by voice vote.

RS 15124 **Representative John A. Stevenson** spoke in support of **RS 15124**. The current Ground Water District statutes allow for 3 to 7 voluntary directors. Because of demographics there are a limited number of growers in some areas. This legislation would allow two directors-at-large to be elected by a 2/3 majority at the annual meeting of the Ground Water District. Every director at large must be a ground water user in the district.

Ground Water Districts are involved in a lot more issues than when they were first created. This legislation would allow broader decision-bases in those districts not having demographics to support seven directors.

MOTION: **Representative Smith (30)** made a motion to introduce **RS 15124** for printing, and to refer the bill to the Resources and Conservation Committee. The motion carried by voice vote.

RS 15130

Mr. Lynn Tominaga, Lobbyist representing the Idaho Ground Water Appropriators, Inc., spoke in support of **RS 15130**. Legislation passed at the end of last session, pertaining to nonmembers of Ground Water Districts, caused some problems. The Districts and the Department of Water Resources have worked on this legislation to address several concerns and to provide for specific procedures.

This legislation (1) amends existing law to provide that a delinquent assessment list be acknowledged by the district treasurer before it is filed with the county recorder. Upon payment of a delinquent assessment, the treasurer also files notice of the payment with the county recorder; (2) provides that a nonmember of a Ground Water District is prohibited from participating in an approved district mitigation plan until the nonmember has paid any past due mitigation costs; and (3) provides a procedure for district collection of mitigation costs from nonmember participants when the legislature has provided by law that the holders of certain ground water rights not otherwise covered by a mitigation plan shall be deemed nonmember participants in the district solely for mitigation purposes.

MOTION:

Representative Stevenson made a motion to introduce **RS 15130** for printing, and to refer the bill to the Resources and Conservation Committee. The motion carried by voice vote.

RS 14931

Representative Tom Trail spoke in support of **RS 14931**, stating that this House Joint Memorial endorses the efforts to amend the Patriot Act by US Senator Larry Craig and about 60 co-sponsors. The amendment would assure that this act works well to protect our security, but that it does not unnecessarily compromise essential liberties of the citizens of the US.

Representative Trail provided a letter from US Senator Craig urging the passage of this Memorial (Attachment 1).

MOTION:

Representative Miller made a motion to introduce **RS 14931** for printing and to refer the bill to the Second Reading Calendar. The motion carried by voice vote.

RS 15076

Former Senator Moon Wheeler spoke in support of **RS 15076**. He mentioned that thirty years ago he served on this Committee. Citizens of Power County are bringing to your attention a famous sports figure, Earl Sande. Mr. Sande was not born in Idaho, but spent his formative years in the American Falls area. Seventy-five years ago he rode Gallant Fox and won the 1930 Triple Crown. Mr. Sande compiled a 26.4% lifetime winning percentage, which is the third highest of all time, and a 60.9% lifetime percentage of in-the-money mounts. The late Earl Sande was an outstanding individual. The House is to be commended for the process allowing him to be recognized.

MOTION:

Representative Ellsworth made a motion to introduce **RS 15076** for printing and to refer the bill to the Second Reading Calendar. The motion carried by voice vote.

HB 291

Mr. Patrick Collins, Attorney for Hawley Troxell Ennis & Hawley LLP and representing Sun Valley Ventures, LLC, spoke in support of **HB 291**. This legislation (1) would allow a property which has operated as a golf course for a least 20 years to convert to a different use without losing the liquor license associated with the property; (2) would not allow the liquor license to be transferred away from the property; (3) would not allow the property to be eligible for "split ownership" after the golf course use is terminated; and (4) will encourage economic development and increase the tax base by enabling the property to be converted to a higher and better land use

without losing a long-standing liquor license.

This legislation will not increase the number of liquor licenses in Idaho, nor would it increase the administrative burden on the Department of Law Enforcement. Mr. Collins described for the Committee some of the plans for Warm Springs Ranch and pointed out how costly (\$450,000) and difficult it would be to obtain a new liquor license in Ketchum (Attachment 2). He urged support of HB 291.

A Committee member asked if the same liquor license would be used as an “umbrella” for all of the sites proposed on the master site plan. Mr. Collins said if the property is owned, operated or leased by the same person, the liquor license can be used at all locations on the property.

PRO

Mr. Henry Dean, Project Director, Sun Valley Ventures, LLC, explained that Sun Valley Ventures purchased 77 acres from the Simpson family. It was decided to decommission the golf course because it was a dangerous course. The redevelopment of Warm Springs Ranch will consist of the following elements:

- Restoration and protection of nearly half of the 77-acre site as a nature preserve;
- A new building for the Warm Springs Ranch Restaurant;
- The Bald Mountain Trail connection between the Warm Springs and River Run base facilities;
- Lodge at Warm Springs Ranch; a classic boutique hotel with 12 suites and 48 individual hotel cabins;
- A full-service spa;
- Approximately 75 condominiums and town homes;
- An unobtrusive, enclosed parking structure;
- Deed-restricted community housing consisting of eight to ten studios and two-bedroom apartments;
- Estate home sites; and
- Limited traffic – travel within the property will be primarily pedestrian, with access to the hotel cabins via electric vehicle only.

The economic impact of this redevelopment would amount to about \$200 million for the city of Ketchum. In response to a question about their water requirements being different with the new development, Mr. Dean said the water use will decrease, but the water rights will remain the same.

MOTION:

Representative Snodgrass made a motion to send **HB 291** to the floor with a DO PASS recommendation. This legislation extends the license as a property right so they can continue doing business.

The motion carried by voice vote. Representatives Stevenson, Loertscher and Andrus wished to be recorded as voting “NO”.

ADJOURN:

There being no other business, the meeting was adjourned at 9:45 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS SUBCOMMITTEE

DATE: March 10, 2005

TIME: 8:30 A.M.

PLACE: Room 412

MEMBERS: Chairman Smylie, Representatives Miller, Ring, Snodgrass, Anderson, Smith(30)

**ABSENT/
EXCUSED:** None

GUESTS: **Mr. Bob Hall**, Executive Director, Idaho Newspaper Association; **Mr. Bill Roden**, Attorney/Lobbyist, Idaho Business Review; **Mr. Rick Carpenter**, Publisher, Idaho Business Review; **Mr. Mike Stewart**, Publisher, Long Valley Advocate; **Ms. Leslie Hurst**, Publisher, Idaho Statesman; **Ms. Stephanie Pressly**, Publisher, Idaho Press Tribune; **Mr. Roy Eiguren**, Attorney, Idaho Allied Dailies; **Ms. Maggie Colwell**, Lobbyist, Idaho Association of Counties; **Mr. Bob Aldridge**, Attorney; **Mr. Erin Bennett**, Lobbyist, Veritas Advisors

Chairman Smylie called the Subcommittee to order at 8:32 A.M. The Subcommittee will be more informal in its proceedings, and those present who wished to discuss HB 255 and HB 256 were invited to sit around the table. Mr. Eiguren, Representative Trail and Mr. Roden will be given the first opportunity to speak about any proposals or changes that have transpired since the bills were before the full Committee last Friday.

Chairman Smylie reviewed the Subcommittee charges:

1. Consider the present situation and look at how smaller newspapers could continue to print notices as well as newspapers with the largest paid circulation;
2. Look at how and where legal notices are being printed – one section, one format vs. being scattered throughout the paper;
3. Look at the rate structure and other provisions that would increase the size of ads;
4. Look to see if there is something we need to do this year as a short-term fix to avoid lawsuits.

Those interested parties participating in the discussion were introduced and given the opportunity to speak to this legislation.

Mr. Roy Eiguren, Attorney, Idaho Allied Dailies, explained that HB 256 is the work of an ad hoc task force that met this past year to work on this legislation. During the 1999 session, that last time a rate increase for publishing public notices was approved, the legislature directed, through intent language, that before bringing another request for a rate increase an ad hoc group needed to look at all of the issues surrounding public notices.

The ad hoc task force held 12 meetings and invited various parties and state agencies to help conduct a comprehensive review of the sections of code

pertaining to public notices for government entities. Many code sections were found to be obsolete, ambiguous and inconsistent.

This legislation standardizes the code, provides for local entities to designate the newspaper that qualifies as the "official newspaper" and also proposes raising the rate charged by the state's official newspapers for publication of public notices. Idaho is one of the few states where the legislature sets the rates for public notices.

Mr. Eiguren indicated that the task force did not look at public notices published by private entities, businesses, or title companies, but acknowledged that these are important issues to be addressed. Mr. Eiguren said that the Idaho Business Review did participate on the task force, and it appeared at that time there were no issues.

Mr. Eiguren stated that it is best, under the circumstances, to withdraw HB 256 and commit to convening a task force to look at these issues in the interim. This is a matter of such major concern to newspapers and to the public.

Mr. Rick Carpenter, Publisher, Idaho Business Review, clarified that he did bring this issue to Mr. Eiguren's attention when he first got in town in January. He attempted to try and have them remove "the largest paid circulation" requirement from the legislation.

Representative Tom Trail, said there has been a lot of testimony on this issue. What he was trying to provide through HB 255, on behalf of his constituents, is the opportunity, through statute, for legal, small weekly newspapers to print public notices in the legal paper they know serves their area the best. Would allow them to do jobs for their local constituents. He was not aware there was a draft proposal being offered.

Mr. Bill Roden, Attorney/Lobbyist, representing the Idaho Business Review, expressed his position that we are in great jeopardy at this point not to specify which newspaper can print private notices, deed of trusts and foreclosure notices. Many notices are being printed now by newspapers that do not meet the today's criteria. This needs to be addressed this year from an legal and business standpoint.

Mr. Roden said he has no problem with withdrawing HB 256 and then taking HB 255 and changing it to incorporate his proposal. After listening to Chairman Deal and Representative Smylie, he drafted changes to HB 256 which would allow for a one-year fix to validate what is going on today with newspapers that meet all the criteria except that of the "largest paid circulation". This change would sunset next year. He feels there is a sufficient emergency and this issue needs to be resolved.

The draft proposal inserts language in Subsection 1 of 60-106 that provides that advertisements or publications "by or concerning the business or proceedings of a political subdivision be published in the "newspaper of general interest".

Subparagraph 2, leaves in the provision that all political subdivisions will designate by an ordinance or resolution, a newspaper as defined in this section as the official newspaper of the political subdivision, but removes the

requirement “for the purpose of printing legal notices as required or provided by law”.

This proposal would sunset in one year and does nothing to deal with the rate structure.

Mr. Roden said it takes a couple of times going over this draft to see what it is doing. It puts in the law what is going to be between now and next July and then repeals that provision and goes back the existing law. Mr. Roden pointed out that the same kind of amendment could be made to HB 255 by adding a provision for business institutions.

Representative Ring asked where the sunset clause is in the draft. Mr. Roden explained it is on Page 5, Section 1. He further explained that Pages 1-2 and the top of Page 3 pertain to the provisions from when this change would be enacted until July 2006. The rest of Page 3 through Page 5 indicates what the law would be after July 1, 2006, but requires that the parties get together.

Mr. Bob Hall, Executive Director, Idaho Newspaper Association, thanked everyone for having a good, probing meeting. Mr. Hall said the handout he provided titled “Public notice Rates Analysis” might be a mute point if HB 256 is withdrawn and we are going to an ad hoc Committee, but it is helpful and suggested they keep it handy (Attachment 1). Idaho rates are based on relative rates where other states use a classified rate or a display rate (CA and OR). There is a great deal of difference. Idaho’s rate is a big bargain and is about 6 to 7 times cheaper than other states.

Mr. Hall said he would like to address the comment about “to do something now is important”. For the record he said the law was clear when it was written, and he assumed that everyone who dealt with these notices understood the law. To try and do something now that says forget that they violated a clear law is not right. He does not agree that we must do something to help people who violated that law. He thinks this is an excellent law and “is working for people who want to get off the dime”.

Chairman Smylie asked for a clarification on the rates for the two columns shown in Attachment 1. Mr. Hall said the difference is readership and a negligible price difference.

Mr. Mike Stewart, Publisher, Long Valley Advocate, apologized for not being present for the earlier hearings on HB 256 and HB 255. Mr. Stewart spoke in opposition to HB 256, explaining that he publishes a small newspaper that competes with Mr. Hall’s daughter and son-in-law who publish the Star News. He voiced his concern that anything the Dailies do profits them.

The changes made a number of years ago were all about circulation. Mr. Stewart said he has a problem with the way circulation is reported because he feels you could put down whatever you want on the form, sign it and work submit it to the post office.

He has owned his paper for 14 years and has tried various approaches to increase his circulation rate, including giving some away. He had increased his circulation to around 5,000 copies per week, and the next year the Star News claimed a 19% increase and reported they were selling 5,200 copies per

week. He began counting the number of copies of the Star News that were left over in the newsstand every Wednesday morning and calculated that there were 1,000 to 1,500 left over each week. He took the numbers to the post office to complain about this, and they began to do an audit and dropped the number back to 3,500. He wanted to know if the state is willing to create a department just to monitor newspaper circulation.

Mr. Stewart said there are lots of small districts in their area, i.e. water districts, cemetery districts, who publish public notices in small local papers. He feels the Allied Dailies do not represent those small newspapers. He mentioned the large Tamarack project and the fact that the Long Valley Advocate is the legal paper for Donnelly. With the current legislation, it is feared that it will be easier for the Star News to try and take away the Donnelly business. The Long Valley Advocate is struggling to survive.

Chairman Smylie said he understands we are dealing with competition here and emotions can get high. He asked those present to focus on the legislation before us and determine what the best approach will be.

Ms. Stephanie Pressly, Publisher, Idaho Press Tribune, said public notices are to meet the needs of the people affected by those notices. Mr. Roden's suggestion is not allowing for competition. His suggestion could encourage people to hide notices in a small general publication. The hasty change could cause problems. Their paper is willing to forego the rate increases for a year to allow time for the ad hoc task force to address this issue.

Representative Snodgrass asked what percentage of public notices vs. government notices are published in the Idaho Press Tribune, and Ms. Pressly said about 50-60% are private notices. Representative Snodgrass said his experience is with the Statesman, and if newspapers are trying to provide a venue for investors they should be making public notices a significant part of the newspaper, not a filler.

He expressed he was having a conflict because we have a newspaper providing public notices in a user friendly manner and meeting the full intent of what public notices are about, but on the other hand they may be acting outside the statutes.

Ms. Pressly responded that they are aware of the user friendly issues, but argued that they are in compliance. She said her paper combines all of the public notices into one section on Mondays, but it is not cost effective for them to do this every day because separate press runs are expensive. Putting these in one newspaper meets the criteria.

Ms. Leslie Hurst, Publisher, Idaho Statesman, said she feels that Ms. Pressly was very articulate in her remarks. The Statesman is aware of the user friendly issues and they are working on this.

Mr. Robert L. "Bob" Aldridge, Attorney, is a member of the Trust & Estate Professionals of Idaho, Inc., has done technical reviews for the Taxation, Probate & Trust Section, Idaho State Bar and is the past Chairman of the Kincare Coalition, an organization for grandparents raising grandchildren.

He said his position is to tell the members that number one, the majority of

lawyers do not understand that notices need to be placed in the largest paid circulation newspaper. The guidelines they follow do not include the “largest circulation” in the criteria they follow.

Secondly, his position is that they should be able to choose. For large creditors, they have a clipping service that gathers notices. In his 35 years of practice, he has had very few citizens who have responded directly off of an ad. He said he supports having the ability to place notices where they would be the best and the most user friendly.

Thirdly, price is a significant issue because a lot of his work is done on a pro bono basis for clients who are unable to afford placing notices. He said he would support the change as long as newspapers still meet the general circulation criteria.

In response to a question from Chairman Smylie about newspapers being challenged if they publish public notices outside of current code, Mr. Aldridge said he believes under current Idaho code those challenges would be successful – this creates a great uncertainty.

Mr. Roden referred to Mr. Hall’s comments about the law regarding the largest circulation being very clear. Mr. Roden said this requirement has only been in place 10 years and prior to that change newspapers were used to using the official newspaper criteria. Only Idaho and Kentucky have the largest paid circulation requirement. Mr. Roden referred to the statements made by Mr. Hall and Mr. Groty at the House State Affairs hearing on **S 1336** in March 1994 (Attachment 2). The testimony and the SOP only referenced notices for government entities and did not make mention of private notices being included.

Mr. Eiguren pointed out that these statutes have been in place since 1919 and have been amended 10 times. The statute states that no legal notice of any kind can be published unless the notice is published in the newspaper of general interest. He concedes that the criteria for the largest publication has only been in place for 10 years. Mr. Eiguren said he disagrees with the proposal for the one-year patch because it will spawn litigation. He supports sitting down in a very thoughtful way to work on this issue.

Mr. Carpenter stated this comes down to a matter of choice. Just as Mr. Eiguren’s legislation proposed originally to let government entities decide, this is what is being asked on behalf of title companies. To be allowed to publish notices where people go to look for notices. Information was provided on how to figure the rate of a legal notice, according to Idaho statutes (Attachment 3).

Chairman Smylie summarized the issues before the Subcommittee. Mr. Eiguren’s is proposing that HB 256 be held, and recommending an ad hoc task force be formed to look at this to consider the issue of the smaller newspapers and a way to broaden the umbrella. Mr. Roden’s draft proposal is to allow the status quo to continue for a one-year period.

MOTION:

Representative Snodgrass made a motion to **HOLD HB 256**. He said it seems to be the desire of the authors of HB 256 to withdraw this legislation and to form an ad hoc task force to look at all of the issues. The motion carried by voice vote.

MOTION: **Representative Miller** made a motion that **HB 255** be held to allow the ad hoc task force to address both bills. The motion carried by voice vote.

MOTION: **Representative Ring** moved that the Subcommittee recommend to the full Committee that Mr. Roden further refine his draft proposal in the form of an RS and bring it before the full Committee.

Discussion on the motion followed.

Representative Snodgrass said in reference to the motion, he has no problem with printing Mr. Roden's RS, but is not sure he can support it.

Representative Anderson asked, in fairness, were all parties involved aware they could bring an alternative proposal?

Chairman Smylie clarified that he met with both Mr. Roden and Mr. Eiguren and their charge was to bring short-term and long-term suggestions.

Mr. Eiguren said the discussions were very open, but he simply disagrees that there is a need to address this issue in the short-term.

Chairman Smylie pointed out that both could bring new RSs, but given the lateness of the session they may not have a huge chance to succeed.

Representative Anderson said he will be voting against the motion. Even though as a consumer he is frustrated about public notices not being in one section, he feels the avenue is available to present a new RS without the Subcommittee putting their stamp on it.

Representative Smith (30) said the charge of this Subcommittee was to look at HB 255 and HB 256. She said she would be voting no because the Subcommittee should not recommend a "yes" or "no".

Representative Miller said she can see the validity of the Subcommittee suggesting the RS come forward to the Committee and then letting it rise or fall on its own merits.

Representative Snodgrass questioned the appropriateness of the Subcommittee making a recommendation on something that is not even an RS.

VOTE ON MOTION: A voice vote was taken on the motion recommending that Mr. Roden further refine his draft proposal into an RS and bring it before the full Committee. The motion failed on a 3 to 3 voice vote.

ADJOURN: Chairman Smylie thanked everyone for all of their work. There being no further business to come before the Subcommittee, the meeting was adjourned at 9:47 A.M.

Representative Steve Smylie
Subcommittee Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 14, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Edmunson

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

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of March 9, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to approve the minutes of March 9, 2005 as written. The motion carried by voice vote.

Chairman Deal introduced **Representative Tina Jacobson** who will be filling in for Representative Hart for several days.

RS 15129C1 **Senator John Goedde** presented **RS 15129C1**. This legislation addresses an issue the Industrial Commission has struggled with for over two years and looks at how physicians are reimbursed under Worker's Compensation.

Forty (40) states now use a fee schedule as did Idaho prior to the adoption of its current system. This legislation proposes adopting the resource based relative value system (RBRVS) that is used by both Blue Cross and Blue Shield as well as 13 other states. The legislation also charges the Industrial Commission with developing responsible conversion factors. Factors will be set for six different code areas of medicine that share similarities.

In response to a question about whether this legislation pertains to "lawyers" based on the language on Line 7, Senator Goedde said this legislation deals specifically with fees for physicians and only physicians.

MOTION: **Representative Pasley-Stuart** made a motion to introduce **RS 15129C1** for printing and to refer the bill to the Commerce and Human Resources Committee. The motion carried by voice vote.

RS 15005 **Reverend Bruce Swanson**, representing Healthy Families of Nampa, spoke in support of **RS 15005**. Healthy Families of Nampa focuses on the lives of children and helps unwed parents and those whose marriages are in jeopardy.

This resolution encourages public awareness and education about the value of healthy marriages as a statewide incentive. There are many problems with

marriages these days, and marriage has not been looked upon favorably in the last few years. Divorces cost approximately \$30,000 in tax dollars.

This legislation focuses on the health of young people and presents in a simple, proactive manner an opportunity for our state leadership to promote and encourage the institution of healthy marriage in Idaho's public policies.

Chairman Deal added that Mr. Jim Hardinbrook and the clergy in Nampa have been involved in bringing forth this legislation. This issue is extremely important to the City of Nampa.

MOTION: **Representative Smylie** made a motion to introduce **RS 15005** for printing and then to refer the bill to the Second Reading Calendar. The spelling of Representative Bilbao's name will be corrected on the SOP before printing. The motion carried by voice vote. **Representative Deal** will sponsor the bill on the floor.

SCR 113 **Senator Bart Davis** spoke in support of **SCR 113**. This resolution pays tribute to and honors The Post Register during its 125th anniversary. The paper has gone through numerous name changes and owners in its 125 years. The newspaper today remains privately and locally owned. Senator Davis said he and his brothers delivered newspapers for The Post Register as boys before each achieved their Eagle Scout badges.

MOTION: **Representative Miller** made a motion to send **SCR 113** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Rydalch** will sponsor **SCR 113** on the floor.

RS 15153 **Mr. Bill Roden**, representing the **Idaho Business Review**, said this legislation is partially due to the outgrowth of some issues that were addressed in the Subcommittee last Thursday. The Subcommittee did not make a recommendation on the draft legislation presented at that meeting.

An emergency exists in the state in relation to private notices. The law was changed in 1994 to further define a "newspaper of general circulation" and added the criteria that the newspaper with the largest paid circulation in a subdivision would print public notices. At that time it was indicated that the legislation dealt with publications by government entities, not private entities. Most attorneys are not aware they must publish notices in a newspaper of general circulation.

This legislation does not exclude past violations nor does it vindicate those actions. The legislation proposes (1) that a non-legislative task force consisting of representatives of the Idaho State bar, the Idaho Association of Counties, the Idaho Association of Cities, and the daily and weekly newspapers published within the state study and make recommendations to the Legislature concerning various matters relating to such publication; (2) that in the interim, the law as it existed prior to 1994 would be in effect; and (3) that if the legislature does not change the law as it has existed between 1994 and the present date or otherwise amend this bill, on January 1, 2007, the law will revert to the present requirement.

MOTION: **Representative Ellsworth** made a motion to introduce **RS 15153** for printing. The motion carried by voice vote.

- RS 15152 & HB 310** **Representative Eskridge** mentioned that an RS was brought last week dealing with public utility cost reduction bonds. That RS was printed and resulted in HB 310. **Representative Eskridge** requested that **HB 310** be HELD in Committee. The PUC has helped improve the bill, thus **RS 15152**. Representative Eskridge asked the Committee to consider printing the RS and referring it to the Second Reading Calendar.
- RS 15152** **Mr. Neil Colwell**, AVISTA Corporation, spoke in support of **RS 15152**. AVISTA Corporation is a gas and electric utility that serves the Grangeville to Bonners Ferry area. Representative Jones had asked, at the print hearing for HB 310, if the PUC had been involved. It was believed at the time they had been, but apparently not everyone on the PUC had reviewed the legislation.
- Once everyone got on the same page, two technical changes are being proposed. Because AVISTA operates in both Idaho and Washington, the Seattle corporate office drafted the original language and put in language on Page 3, Line 16 that referenced 10 days. This language is being changed back to 14 days to meet Idaho requirements.
- On Page 4, Subsection 11 is being removed. That subsection allowed for a judicial review, if the PUC turned down a request. Again, in HB 310 this language was taken from the Washington common code and does not apply in Idaho. It was under no circumstances the intent to appeal.
- MOTION:** **Representative Smylie** made a motion to introduce **RS 15152** for printing.
- SUBSTITUTE MOTION:** **Representative Snodgrass** made a substitute motion to introduce **RS 15152** for printing and to refer the bill to the Second Reading Calendar. The motion carried by voice vote.
- RS 15137C2 RS 15155** **Representative Ellsworth** explained that **RS 15137C1** was heard in the Ways and Means Committee last Thursday. That Committee recommended the legislation be split into two separate pieces of legislation before printing. She recommended both pieces of legislation (**RS 15137C2 and RS 15155**) be introduced for printing. The Chairman asked that she make two separate motions.
- MOTION:** **Representative Ellsworth** made a motion to introduce **RS 15137C2** for printing and refer the bill to the Judiciary, Rules and Administration Committee. The motion carried by voice vote.
- MOTION:** **Representative Ellsworth** made a motion to introduce **RS 15155** for printing and refer the bill to the Revenue and Taxation Committee. The motion carried by voice vote.
- RS 15141** **Representative John A. Stevenson** presented **RS 15141** to the Committee, explaining this RS comes to us from the Office of Species Conservation. This legislation would allow them to address issues relating to “candidate and petitioned species and rare and declining species” in addition to their work on endangered and threatened species. This would allow this office to evaluate these species before they get to the threatened and endangered list.
- MOTION:** **Representative Pasley-Stuart** made a motion to introduce **RS 15141** for printing and to refer the bill to the Resources and Conservation Committee.

The motion carried by voice vote.

RS 15147 **Representative Black** explained that **RS 15147** is a trailer bill to HB 263. A couple of technical corrections are being made. The first corrects the state tax commission's reporting procedures, and the second clarifies the description of the award contract. Representative Black asked the RS be printed and referred to the Business Committee.

MOTION: **Representative Miller** made a motion to introduce **RS 15147** for printing and to refer the bill to the Business Committee. The motion carried by voice vote.

RS 15139 **Representative Eric Anderson** spoke in support of **RS 15139**. This memorial urges Congress to reject the Administration proposal to move Power Marketing Administration (PMA) rates to market rates. This legislation would affect 36 to 38 other states as well as Idaho and would save Idaho approximately \$100 million in the first year.

It was clarified that Idaho's Congressional delegation is in full support of this memorial.

MOTION: **Representative Shepherd (2)** made a motion to introduce **RS 15139** for printing. The motion carried by voice vote.

HB 269 **Representative Wendy Jaquet** spoke in support of **HB 269**. This legislation would afford the Senior Centers the same fundraising benefit that is given to the Rotary Club duck races. This change would allow for cash prizes to exceed \$1,000. This change cannot be made without going through the legislative process.

PRO **Mr. Jim Spinelli**, Co-Chairman of the Wood River Senior Connections, spoke in support of **HB 269**. His organization serves seniors in Sun Valley, Ketchum, Hailey, Bellevue, and Carey. He explained that the change being asked for would allow lottery cash prizes for senior centers to be larger than \$1,000. Right now if the not-for-profit organization wants to raffle off a gift amounting to more than \$1,000, they must first purchase the item and hope they sell enough raffle tickets to cover the cost of the item.

The duck race finds a sponsor to donate the item, and then they can raffle the item. This is a small change for a very small portion of not-for-profit organizations, so they feel it is not setting a precedent. The special exemption would be similar to that of the Rotary Club.

MOTION: **Representative Jones** made a motion to send **HB 269** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Jaquet** will sponsor **HB 269** on the floor.

HB 300 **Representative Margaret Henbest** spoke in support of **HB 300**. This legislation changes the way we measure performance in the state. Performance measurement is one of the many ways we can see how well an agency is doing, but a performance measurement system is only as good as the information it produces for the legislature and the public.

The current strategic planning and performance measurement system was established twelve years ago. This system requires that agencies submit their plans and performance information to the Division of Financial

Management (DFM). DFM then publishes that information in an annual publication.

According to a recent Office of Performance Evaluation report, hardly anyone uses this information because (1) is it generally not reflective of agency performance; (2) there is no assurance about the accuracy of the information reported; and (3) the Legislature, the key intended user, does not have a formal role in reviewing the information and providing input.

This legislation replaces the current statute and will help improve government accountability by (1) establishing a formal mechanism for legislative involvement in reviewing the information and providing feedback through germane committees; (2) requiring that agency budget and policy analysis be included in the JFAC budget books; and (3) streamlining and strengthening the requirements for providing useful and accurate performance information. Ten or less performance measures will be used to reflect agency performance in key areas.

DFM will coordinate training for agency staff and OPE will provide training to the Legislature. It is estimated that the cost of training will be \$20,000 every two years.

In response to a question about the fiscal note, it was clarified that this will be an ongoing expenditure. Once agencies start down this track it should be easier to understand.

- PRO** **Mr. Randy Tilley**, representing the Division of Financial Management, thanked Representative Henbest, Rakesh Mohan and the others who worked on this legislation. He said DFM is very comfortable with the new bill and feels it should be moved forward. It allows the Legislature to play a significant role in performance measures.
- MOTION:** **Representative Smith (30)** made a motion to send **HB 300** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Henbest** will sponsor **HB 300** on the floor.
- ADJOURN:** There being no more business to come before the committee, the meeting was adjourned at 9:55 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 15, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Loertscher

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

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of March 14, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to accept the minutes of March 14, 2005 as printed. The motion carried by voice vote.

RS 15048 **Representative Kathie Garrett** spoke in support of **RS 15048**. Once printed, this legislation should be referred to the Commerce and Human Resources Committee. This resolution requests that the Legislative Council approve an interim committee to analyze the state employee compensation and benefits system. The committee is to deliver a report and any recommended legislation to the next session of the Legislature.

Representative Garrett said she feels there is a need to address serious issues that affect reimbursement and compensation.

MOTION: **Representative Pasley-Stuart** made a motion to introduce **RS 15048** for printing and to refer the bill to the Commerce and Human Resources Committee. The motion carried by voice vote.

RS 15156 **Representative Mark Snodgrass** spoke in support of **RS 15156**. This legislation corrects an inconsistency in Idaho Code and makes it clear that school districts can refund all or any portion of an outstanding issue of bonds. This measure will allow school districts to issue refunding bonds at lower interest rates for a term equal to the term of the outstanding bonds to be refunded.

The current statute only allows refunding after a 5-year period. This legislation provides flexibility for school districts. It is estimated that schools in the Treasure Valley can save between \$700,000 to \$1.2 million.

MOTION: **Representative Smylie** made a motion to introduce **RS 15156** for printing. The motion carried by voice vote.

S1076a **Mr. Ron Crane**, State Treasurer, spoke in support of **S1076a**. The bond

rating agency has asked for the past two years if Idaho has a mechanism in place to monitor state created debt. This legislation addresses their concern and creates the Idaho Credit Enhancement Committee to protect and enhance the credit rating of the State of Idaho. This committee will monitor the state guaranteed indebtedness such as bonds which have state backing, i.e. School Bond Guarantee program.

The committee would issue an annual report to the Governor and the Legislature. The first year the committee will look at debt service schedules and trends in debt services for the past ten years, and the second year it is the intent to forecast debt expectancy and debt services for the next 10 years. These efforts will maintain and improve Idaho's credit rating.

The Treasurer will chair the committee and other committee members will be the administrator of DFM, one Senator appointed by the President Pro Tem and one Representative appointed by the Speaker. Other members appointed by the Governor will include one member from the Idaho State Municipal Bond Bank, Idaho Housing and Finance Association, Idaho State Building Authority, the Department of Education (representative of the school bond guarantee fund), and one member at large.

It was clarified that the fiscal impact of \$1,000 will be a yearly impact and will be absorbed from the Treasurer's account. It is anticipated there will be travel expenses for legislators and printing expenses.

Representative Stevenson asked if this committee will evaluate GARVEE bonding, and Mr. Crane responded, "yes" ISHA is a part of the committee. A follow-up question was asked about whether a conflict exists if ISHA issues the bonds and also evaluates them. **Mr. Brian Kane**, Deputy AG, responded by saying the whole point of having the issuers on the committee is the ability to understand what's behind the debt and to accurately discuss the debt.

MOTION: **Representative Miller** made a motion to send **S1076a** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Stevenson asked to be recorded as voting "NAY". **Representative Deal** will sponsor **S1076a** on the floor.

HB 313 **Ms. Laura Steffler**, Chief Deputy Treasurer, spoke in support of **HB 313**. Section 67-1222, Idaho Code, allows the State Treasurer to collect certain types of debt and bond issue information. This amendment would simplify the reporting process for the entities and the State Treasurer's Office by collecting only the data that is most used.

MOTION: **Representative Jones** moved to send **HB 313** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Jones** will sponsor **HB 313** on the floor.

Chairman Deal turned the meeting over to Vice Chairman Smylie to report on the findings of the Subcommittee that met to consider **HB 255** and **HB 256**. The Subcommittee minutes of March 10, 2005 were reviewed.

MOTION: **Representative Smith (30)** moved to accept the Subcommittee minutes of March 10, 2005 as written. The motion carried by voice vote.

Vice Chairman Smylie reviewed the four charges given to the Subcommittee.

(1) Look at the present situation – **HB 256** was the result of a task force recommendation, but several key groups were not represented on the task force, including the Idaho Bar Association, members from the legislature, and the smaller publishers. The sponsors of HB 256 are recommending that this legislation be held and have agreed to reconvene an ad hoc task force in the interim to address public notice issues and come back with a better bill next year.

(2) Look at the issue of how and where legal notices are printed – Publishers from the Idaho Press Tribune and the Idaho Statesman testified that they are aware that legals are often used as fillers, but it is cost prohibitive to run a separate section each day. This is a subject for the task force to consider.

(3) Look at the current and proposed rate structure – Everyone has agreed to have the task force study the rate structure and put it into any future legislation. There seems to be little support to go to a “market rate” structure for legals.

(4) Consider whether a short-term fix is needed – The committee was divided on the need for a short-term fix. One of the participants, Mr. Aldridge, indicated that the possibility of a successful legal challenge is a very real one and considerable uncertainty exists.

Subcommittee recommendations are (1) to hold both HB 255 and HB 256 and (2) to authorize the forming of a task force that will include previous members as well as representatives from the smaller newspapers and the legal professionals. This task force should report to the Senate and House State Affairs and Judiciary Committees.

While the Subcommittee made no recommendation on a short-term fix, we did as a Committee print legislation on Monday that will provide an interim procedure. This may give added motivation for the parties to negotiate in good faith and avoid potential legal challenges in the interim.

MOTION: **Representative Smylie** made a motion to HOLD **HB 256** in Committee. The motion carried by voice vote.

MOTION: **Representative Smylie** made a motion to HOLD **HB 255** in Committee. The motion carried by voice vote.

Chairman Deal informed the Committee that the Speaker has agreed to write a letter to establish a joint task force to work out a solution.

ADJOURN: There will be no meeting on Wednesday, and the Committee will meet on Thursday at 9:00 A.M. There being no more business to come before the committee, the meeting was adjourned at 9:27 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

- DATE:** March 17, 2005
- TIME:** 9:00 A.M.
- PLACE:** Room 412
- MEMBERS:** Chairman Deal, Vice Chairman Smylie, Representatives Stevenson, Ellsworth, Black, Edmunson, Miller, Ring, Snodgrass, Jones, Garrett, Loertscher, Anderson, Andrus, Hart, Shepherd(2), Smith(30), Pasley-Stuart
- ABSENT/
EXCUSED:** Representative Stevenson, Ellsworth, and Smith(30)
- GUESTS:** Former Representative Ruby Stone, Lura Thompson, Vicki Patterson, Nick Miller, Eeve Kiler, Michelle McMullen, Ron Williams
- Chairman Deal** called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of March 15, 2005 were reviewed.
- MOTION:** **Representative Miller** made a motion to accept the minutes of March 15, 2005 with one correction on Page, 3. The second motion should have been to "HOLD HB 255" rather than "HB 256". The motion carried by voice vote.
- SCR116** **Mr. Carl Bianchi**, representing Legislative Services, spoke in support of **SCR116**, legislation to approve the temporary agency rules. Legislative Services dealt with over 4,000 pages of agency rules this session. The Administrative Rules process is a good, educational process that gives the Legislature oversight of agency rules.
- Temporary rules expire at the end of the session unless extended. This concurrent resolution would approve and extend agency temporary rules beyond the current session, with the exceptions found in Attachment 1, starting on Line 22.
- MOTION:** **Representative Jones** made a motion to send **SCR116** to the floor with a DO PASS recommendation. The motion carried by voice vote.
Representative Hart will carry **SCR116** on the floor.
- SCR117** **Mr. Carl Bianchi** spoke in support of **SCR117**. Fee rules do not go into effect unless approved by both the House and the Senate. This resolution would approve agency fee or charge rules that have been adopted during the last calendar year, except for those fee rules that were not approved by both the House and Senate Committees that reviewed them (Attachment 2, Lines 29-38).
- MOTION:** **Representative Jones** made a motion to send **SCR117** to the floor with a DO PASS recommendation. The motion carried by voice vote.
Representative Anderson will sponsor **SCR117** on the floor.

SJM108

Ms. Vickie Patterson, Lobbyist representing the Nelson family, spoke in support of **SJM108**, stating she was involved in writing this memorial. Mr. Morley Nelson was a good friend and is being recognized for his outstanding, staggering accomplishments and his strength. Mr. Nelson is being recognized for the recruitment and establishment of the Snake River Birds of Prey Natural Area in Boise and in bringing the Peregrine Fund's World Center for birds of Prey to Idaho. He brought the State of Idaho to the attention of tourists from all over the world, and gained respect and friendship of Kings, Presidents, Congress and Business.

He was a film maker and worked a lot with Disney. He filmed "The Living Desert" which received an academy award. He served in the military and received a Purple Heart a Gold Star and a Silver Star. He should be recognized for his honesty, his inexhaustible energy, his boundless stamina, and his contagious passion for educating the world to birds of prey. He was truly, "A Man for All Seasons".

MOTION:

Representative Smylie made a motion to send **SJM108** to the floor with a DO PASS recommendation. Morley Nelson was a fascinating individual who did a lot for the state.

The motion to send **SJM108** to the floor with a DO PASS recommendation carried by voice vote. **Representative Deal** will sponsor **SJM108** on the floor.

HJM9

Representative Eric Anderson spoke in support of **HJM9**. The Administrative proposal to move Power Marketing Administration (PMA) rates to market rates violates why the Bonneville Power Administration (BPA) was created and limits its authority. Raising BPA's rates will create an impact to Idaho's rural customers that are served by rural electric cooperatives and municipalities.

This House Joint Memorial urges the Congress to reject the Administration proposal to move PMA rates to market rates, thereby ensuring the continued responsible management of power generation, transmission and sale.

Representative Anderson declared under Rule 38 that he serves on the board of an electric cooperative.

PRO

Mr. Ron Williams, Attorney for the Idaho Consumer-Owned Utilities Association, spoke in support of **HJM9**. He represents 23 of the 26 rural electric cooperatives and municipalities who buy power from the BPA. He referred to the serious problems California and Montana have had after deregulation and moving to market based rates. Fortunately, Idaho has had the foresight not to move to market rates. The proposal by the Administration to move to market base rates would double power rates in the Northwest and have a major impact on consumers in rural Idaho.

The ICUA supports **HJM9**, and they have members in Washington now to voice their opposition to the proposal.

Mr. Williams was asked if the Administration proposal to move to market rates is a real threat. Mr. Williams said he feels the threat is real and

reoccurring. The Administration is looking for many dollars in many ways to raise money for the Federal government. The BPA was Federally subsidized, but the money borrowed was paid back.

MOTION: **Representative Smylie** made a motion to send **HJM9** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Anderson** will sponsor **HJM9** on the floor.

H350 **Representative Mark Snodgrass** spoke in support of **H350**. This legislation corrects an inconsistency between Section 33-1121 and Section 57-504, Idaho Code, and makes it clear that school districts can refund all or any portion of an outstanding issue of bonds. The legislation also corrects an inconsistency between Section 33-1107 and Section 33-1123, Idaho Code, to clarify that school districts can issue refunding bonds for a term equal to the term of the outstanding bonds to be refunded.

Lines 35-38 are being repealed and Lines 39-41 are added to allow for a portion of a bond issue to be refunded rather than requiring that the entire bond issue must be refunded.

School bonds are issued for 20 years, and this legislation makes it clear that from the point bonds are issued they can be refunded. This legislation will result in a significant savings for the Meridian, Kuna, Marsing, Nampa and other school districts. It was clarified that savings cannot be used as a filler for district budgets – but must be used to reduce the amount of the debt.

Representative Snodgrass deferred to **Mr. Nick Miller** to respond to a question about whether the bonds being replaced have a “call” provision. Mr. Miller clarified that most school bonds are callable only after 10 years. This legislation provides a mechanism to refund a bond before the call date. This mechanism can only be used one time, making sure the savings are optimal.

Mr. Miller said the issue being addressed is one where numerous school districts issued bonds in 2001 and 2002. If districts have to wait five years before they can refund these bonds, the savings opportunities may be lost because interest rates are on the rise.

MOTION: **Representative Pasley-Stuart** made a motion to send **H350** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Snodgrass** will sponsor **H350** on the floor.

Chairman Deal welcomed former Representative Ruby Stone. She apologized for not having her hat that she always wore on St. Patrick’s Day.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:30 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 18, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting to order at 9:05 with a quorum being present. The minutes of March 17, 2005 were reviewed.

MOTION: **Representative Miller** made a motion to accept the minutes of March 17, 2005 with one correction. She asked that "Lura Thompson" be added to the list of guests. The correction was noted. The motion carried by voice vote.

RS 15170 **Representative Bob Ring** introduced **RS 15170** and asked that it be printed and referred to the Health and Welfare Committee. This legislation proposes to create under the Bureau of Occupational Licenses a Board of Naturopathic Medical Examiners for the purpose of licensing naturopathic physicians. It also provides appropriate scopes of practice for them and for others providing natural health care services.

Representative Ring responded to the following questions:

- ***What are the principal differences between this legislation and S1158?*** There are two groups practicing naturopathy in Idaho that have never been licensed; one group has degrees, and the other group has not met any educational requirements. This bill continues to allow the "less than fully educated" to do what they do, but not claim to be a doctor of naturopathy. Senator Geddes bill with amendments, as I understand it, has a 7-year grandfathered provision to allow them to continue to practice and to allow time for them to go to school and get their education. Both bills would provide licensure and the difference is what to do with those without an education.
- ***Have either the Idaho Association of Naturopathic Physicians or the Coalition for Natural Health been involved in developing this legislation?*** These groups have had copies of this legislation, and there have been multiple attempts to come to some agreement on these elements. There is an impasse.
- ***Are there licensed doctors in Idaho?*** The City of Blackfoot issues a license, but there is no state license.
- ***Doesn't the medical board have the right to question this?*** They can only question this if the person reports as a medical doctor, but naturopaths do not come under that licensing board.
- ***To clarify an earlier question, did the two parties participate in***

this legislation? The people who are bringing this legislation worked for two months to try and get the Senate bill more protective of the public. The people supporting the Senate bill have not seen this RS, but have had the language for over a week.

- **What is the status of the Senate bill?** It is on the Senate 3rd reading calendar.
- **If we introduce this bill for printing, will both bills be presented side by side in Health and Welfare?** That is the intent.

MOTION: **Representative Smith (30)** made a motion to introduce **RS 15170** for printing.

SUBSTITUTE MOTION: **Representative Loertscher** made a substitute motion to return **RS 15170** to the sponsor. He said it has taken these groups a lot of years to come to an agreement to be licensed, and we are seeing something they haven't reviewed. There are things in this RS that were in the legislation last year and were objected to. There are "bridges" and "wedges" and this is a "wedge" being driven between the groups that are trying to get licensing.

ROLL CALL VOTE ON THE SUBSTITUTE MOTION: A roll call vote was requested on the substitute motion to return **RS 15170** to the sponsor. The substitute motion failed on a 4 to 11 vote. Those voting "AYE" were Representatives ELLSWORTH, MILLER, LOERTSCHER, and HART. Those voting "NAY" were DEAL, SMYLIE, STEVENSON, EDMUNSON, RING, SNODGRASS, JONES, ANDRUS, SHEPHERD(2), SMITH(30), and PASLEY-STUART.

VOTE ON THE ORIGINAL MOTION: The original motion to introduce **RS 15170** for printing and to refer the bill to the Health and Welfare Committee carried by a voice vote. Representatives LOERTSCHER and HART asked to be recorded as voting "NO".

S 1161aa **Senator Tim Corder** spoke in support of **S 1161aa**. He informed the Committee that the companion bill to this legislation, S 1125, passed in the Senate and the House and is now in the Governor's office. This legislation provides the administrative procedures for how S 1125 is handled.

Page 1 of the legislation adds language requiring a notice of adoption of the pending rule and specifies what comprises the notice. Page 2 addresses the requirement for a specific description containing the section of Idaho Code that has occasioned the rulemaking as well as a fiscal impact description of any negative fiscal impact on the state general fund greater than \$10,000 during the fiscal year when the pending rule will become effective.

MOTION: **Representative Ellsworth** made a motion to send **S 1161aa** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Ellsworth** will sponsor **S 1161aa** on the floor.

S 1044aa **Senator Gary Schroeder** spoke in support of **S 1044aa**, saying he is not aware of any opposition. This legislation references Idaho Code 67-5726 and Idaho Code 67-5734 into Title 18, where the general ethics in government provisions are contained for the convenience and clarity of those seeking guidance. It also clarifies that the provisions of these sections of code extend to local governments, as well as state government.

It is a crime to violate Idaho Code 67-5726 which prohibits acts to influence

or attempt to influence the award of a contract to a particular vendor. No officer or employee shall conspire with a vendor or its agent, and no vendor or its agent shall conspire with an officer or employee to influence or attempt to influence the award of a contract. This legislation does not expand any charges already in the law.

The amendment adds language on Page 2, Line 4, "Unless specifically authorized by another provision of law". This language was added per the attached suggestion from the Attorney General's Office (Attachment 1). In response to why the amended language differs from that recommended by the Attorney General's office, Senator Schroeder said the bill writer changed this to provide continuity.

MOTION: **Representative Smylie** made a motion to send **S 1044aa** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Smylie** will sponsor **S 1044aa** on the floor.

H 332 **Mr. Bill Roden**, representing the Idaho Business Review, spoke in support of **H 332**. This legislation was brought forward following the Subcommittee meeting dealing with H 256 in which the Idaho Allied Dailies and the Idaho Association of Newspapers asked that H 256 be withdrawn. The legislation would essentially take the law back to pre-1994, allowing legal notices to be published in the daily or weekly newspaper chosen by the person or entity giving notice. The newspaper chosen must be a legal newspaper, except for the fact that the newspaper may not have the largest circulation in the county.

Mr. Roden used a handout entitled "A Sampling of Publication Requirements" to point out that none of these requirements were addressed in H 256 (Attachment 2). The code for Uniform Probate, Notice to Creditors and Trust Deeds all require that the notice be published in "a newspaper of general circulation". The code for Notice of Adoption Proceedings requires these notices be placed in a "newspaper or newspapers to be designated by the court as most likely to give notice". Counties must publish their proceedings in "one issue of such newspaper published in the county and which newspaper also has the largest average paid circulation in the county for the last six months of the prior calendar year".

H 332 would provide the smaller newspapers, who may meet all other criteria except for the largest circulation, the opportunity to publish private notices. This legislation does not excuse previous erroneous publications.

Chairman Deal informed those present that eight people signed up to testify on H 332, and he planned to alternate the testimony between those for and those against.

CON **Mr. Roy Eiguren**, testified in opposition to H 332 on behalf of the Idaho Allied Dailies. His organization, along with the associations of counties and cities, spent over a year reviewing and revising the code pertaining to publishing legal notices for government entities. At the Subcommittee meeting they asked that H 256 be withdrawn to allow time to look at the type of qualifications appropriate for publishing private notices.

Mr. Eiguren said Idaho Code 60-106, Qualifications of Newspapers Printing Legal Notices, supercedes all other code. It requires that legal notices,

advertisements or publications of any kind must be published in a newspaper of general interest. The code further requires the newspaper to have the largest paid circulation among all newspapers published in that governmental entity.

In 1999 legislative intent language created an ad hoc task force to review all of the legal publication statutes. The Idaho State Bar was asked to be part of this group, and they chose not to participate. The task force only looked at publications for government entities, not at public notices.

Their position is that H 332 is not necessary because there is not an emergency nor a crisis. This legislation should be held, and the task force that is already in place should once again meet to consider all sections of code dealing with private notices. There are different ways to look at this, but it needs to be done in a deliberate, unhurried way. Mr. Chadwick, Association of Counties, and Mr. Ruen, Association of Cities, both stand in support of this position.

- PRO** **Mr. Rick Carpenter**, Idaho Business Review, testified in support of H 332. He said he talked with the previous publisher of the Idaho Business Review who said that he had participated in the task force from the get-go, but felt his voice was not heard over the larger newspapers. They didn't have a voice on these issues.
- CON** **Mr. Bob Hall**, representing the Idaho Newspaper Association, a blend of large and small newspapers, testified in opposition to H 332. His association is concerned with the unusual provision that the unjustified emergency clause on Page 4 of H 332 take affect at the close of this session. He maintained that every Idaho newspaper has had the opportunity to read and act upon the clear provisions in the law. He has worked regularly toward the full understanding of the clear direction in 60-106. Attorneys, banks and trustees have never, until now, indicated any difficulty in understanding the provisions. Based on the weakness of the SOP and the lack of an emergency, H 332 should be held.
- PRO** **Mr. Mike Stewart**, Long Valley Advocate, testified in support of H 332. He said he represents the small newspaper guys who are trying to organize to do a better job of being involved. They support this legislation as an interim solution, and they would like to be invited to participate in the task force.
- CON** **Ms. Pam Morris**, publisher of the Idaho Mountain Express and a member of the task force, testified in opposition to H 332. The Idaho Mountain Express, founded in 1974, is the only locally owned and operated newspaper in Blaine County, and it is the newspaper of general circulation in that county. She believes public notices need to be published where they get the most exposure. Government entities often publish in multiple papers.
- She feels H 332 would (1) change the rules for publication of legal notices to benefit narrow interests, not the public interest; (2) lead to confusion for the public, public employees, and private companies; (3) open the door to unnecessary and expensive lawsuits; (4) lead to rule by petty politics; and (5) open the door to changes that could inflict major damage on newspapers in Idaho's small towns.
- She supports retaining the existing law because legal notices receive the

best exposure in the largest circulation papers, and it provides an impartial standard for newspaper selection and prevents consideration of petty personal politics. She asked that H 332 be held.

When asked how long they have had the largest circulation and approximately how much income is derived from printing legal notices, Ms. Morris said they have had the largest circulation for about 15 years and derive about \$25,000 per year from printing notices.

PRO

Mr. Bob Aldridge, Attorney, representing the Tax and Estate Professionals of Idaho, testified in support of H 332. He is Chairman of the Trustees of America and has been involved in writing the Probate, Conservatorship and Guardianship Forms Books and has developed numerous checklists. The 1994 requirements were not understood by the majority of lawyers and have not been included in these publications.

There are thousands of probate and trust notices and notifications to creditors that are not in compliance with this section of law. Time is needed to participate in the task force, because there is a tremendous amount of work to do to correct the misleading checklists. They did not attempt to incorrectly publish notices, but they were doing what they believed was correct. An informal survey was conducted and not one of the attorneys or trust officers was aware of the "largest circulation" requirements.

This group needs to (1) know what the law is and what to do; (2) know what to do with all of the publications that are in the middle of the process and may not be deemed legal; (3) whatever happens, they need certainty. He said the passage of H 332 would be appropriate, and he wants to be involved in the task force.

CON

Mr. Tom Grote, editor and publisher of the Star News, McCall, testified in opposition to H 332. The intent here is not for small newspaper preservation, but to consider the intent of public notices – notices intended to reach the people who are affected by them. Idaho Code 60-106 is clear, and it is proper to ensure the widest distribution for the dollars spent. H 332 would erode the standard and be a step backward. If people decide where to print, they may retaliate for such things as a bad editorial.

We got here in the first place because the counties and cities wanted an objective standard to give guidance. H 332 should be held.

Chairman Deal gave Mr. Eiguren and Mr. Roden about three minutes each to sum up the debate.

Mr. Eiguren said this has been a good debate and in summary he (1) believes on behalf of the cities and counties that the standard of where to print notices should stay in place; (2) did commit to continuing the task force – they are only half way done and need to include the Idaho Bar Association as they go through the private notice statutes; and (3) is concerned that making a change now will cause more confusion. He urged that H 332 be held and that a task force be put together.

Chairman Deal informed Mr. Eiguren that the Speaker is working with the Pro Tem to set up a joint task force.

Mr. Roden thanked the Committee for their time spent on this important issue for newspapers and for private citizens. He pointed out that the task force was authorized in 1999, but took five years to form and did not come together until they were asking for an increase in rates.

Mr. Roden clarified that H 332 will not change where counties publish their budgets and proceedings. The fact that H 332 contains the provision that the law reverts back to the current law, if this issue is not resolved by the task force, ensures his intentions were good. This was not done lightly.

MOTION: **Representative Snodgrass** made a motion to HOLD H 332 in Committee. He said what we have here is a patch – a patch that allows businesses operating outside the law to go back to a pre-1994 standard. It is not our job or aim to adjust laws to operate outside an existing law.

SUBSTITUTE MOTION: **Representative Smylie** made a substitute motion to SEND H 332 to the floor with a DO PASS recommendation. This is a very complex issue, the notice statutes vary for different types of notices, and it is obvious by the debate that the code is difficult to understand. Going back to the pre-1994 standard may put more pressure on the task force to resolve this issue.

Representative Loertscher asked Representative Smylie where the sunset clause is if this is only a temporary measure? Representative Smylie said the bill is hard to follow, but Section 3 takes it back to current law, and Section 4 states Section 3 will be in full force and effect on and after January 1, 2007.

VOTE ON THE SUBSTITUTE MOTION: A roll call vote was requested on the substitute motion to SEND H 332 to the floor with a DO PASS recommendation. The motion carried by an 11 to 5 vote. Voting “AYE” were Representatives DEAL, SMYLIE, STEVENSON, ELLSWORTH, EDUMUNSON, MILLER, RING, JONES, ANDRUS, HART, and SHEPHERD(2). Representatives SNODGRASS, LOERTSCHER, ANDERSON, SMITH(30), AND PASLEY-STUART voted “NAY”. Representative Smylie will sponsor H 332 on the floor.

S 1074aa **Chairman Deal** informed the Committee and those present that there was not enough time to adequately consider S 1074aa today. The sponsors of S 1074aa have agreed to have it moved to Monday’s agenda.

ADJOURN: There being no more business to come before the Committee, the meeting was adjourned at 10:22 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 21, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

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

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

Chairman Deal called the meeting to order at 9:02 A.M. with a quorum being present. The minutes of March 18, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to adopt the minutes of March 18, 2005 as printed. The motion carried by voice vote.

Chairman Deal introduced **Representative Kevin Barker**, New Plymouth, who will be filling in for Representative Edmunson this week.

RS 15185 **Representative Jana Kemp** spoke in support of **RS 15185**. The purpose of this proclamation is to recognize and commend the public and private partners who in 2003 founded Idaho's TechConnect program.

TechConnect (1) helps grow Idaho's business community and therefore Idaho's economic well-being; (2) works to promote high technology entrepreneurship and strengthens early state science and technology companies; and (3) combines education, networking, venture capital, and collaboration between government and business to accomplish its goals.

This proclamation does not require any money. It proposes to help recognize the seven businesses who have contributed to TechConnect in Idaho: Bechtel, Babcock, and Wilcox; Regional Development Alliance/Community Reuse Organization; Bannock Development Association; Small Business Development Center of BSU; ISU; Idaho's Office of Science and Technology in the Dept. of Commerce and Labor; and The Office of Governor Kempthorne.

MOTION: **Representative Pasley-Stuart** made a motion to introduce **RS 15185** for printing and to refer this bill to the Second Reading Calendar.

Representative Kemp was asked by Representative Jones to verify that the use of "Community Reuse" on Line 18 is correct. Representative Smith(30) also asked about the use of "Bannock Development Association", stating she has not heard it referred to using "Association". Representative Kemp said she would verify both of these areas.

**VOTE ON
THE
MOTION:**

A vote was called for on the motion to introduce **RS 15185** for printing and to refer this bill to the Second Reading Calendar. The motion carried by voice vote.

RS 15179C1

Representative Doug Jones spoke in support of **RS 15179C1**. The purpose of this resolution is to create a task force appointed by House and Senate Leadership to study the biosciences industry. Representative Jones referred to a blue globe in front of him, saying he had been recognized for two years as the "Legislator of the Year" by BIO. He has worked with BIO nationally and in Idaho.

There is a tremendous amount of information available on this technology, and hi-tech biosciences present a huge opportunity for further development of companies and projects in Idaho. The policy decision to form a task force allows for the inclusion of more people/groups and provides more flexibility.

Representative Smylie said he thinks this is a good idea but wondered whether it had been considered to combine the Environment, Energy and Technology task force with this task force. Representative Jones said this was discussed, but not recommended because a lot of the opportunities in Idaho are in the agriculture industry and the medical fields.

MOTION:

Representative Smith(30) made a motion to introduce **RS 15179C1** for printing and to refer the bill to the Second Reading Calendar. The motion carried by voice vote.

S 1074aa

Mr. Russell Westerberg, registered lobbyist for Coeur D'Alene Racing, Ltd., gave a brief history about how the Greyhound Park was constructed in Post Falls after Former Representative Hilde Kellogg persuaded the 1987 Legislature to authorize pari-mutuel Greyhound Racing. This was done to stimulate investment and economic development in the Coeur D'Alene Basin area. Mr. Westerberg briefed the Committee on the activities at the Park since it was built. Mr. Westerberg's full testimony is found in Attachment 1.

In summary, the owners of Greyhound Park ceased live Greyhound racing in the fall of 1995. Les Boise Park leased the facility shortly thereafter to continue operating simulcasting of horse and dog races, which began at the Post Falls facility in 1991.

In 1996 the Idaho Legislature repealed the statutes authorizing live Greyhound racing and made racing and training of Greyhounds illegal in Idaho. During the discussions accompanying the repeal, the decision was made to include in the act the authority for the Post Falls facility to continue simulcast wagering in order to preserve the jobs of 42 employees. When Les Bois Park's lease expired in 2000, the facility at Post Falls has been known as the Greyhound Park and Event Center. The facility is used for a variety of community activities as well as simulcast wagering on horse and dog races.

In anticipation that at some point in the future the Greyhound Park and Event Center property may be sold, the Senator serving that area proposed an amendment providing that upon the approval of the Racing Commission, current simulcast wagering operations could be conducted at another facility in the same county. After the hearing on S 1074 in the Senate State Affairs Committee, the bill was amended to address a concern that this proposal could be construed to allow simulcast wagering to continue at the current

facility and also the new facility. That was not the intent, and language was added that *“Under no circumstances shall the provisions of this section be used to grant more than one license to conduct simulcast pari-mutuel wagering in any county”*.

Another concern was voiced about making it clear that Section 54-2512 in the horse racing section does not apply to the facility at Post Falls. For that reason, language was added to say *“Notwithstanding any other provision of law to the contrary”*.

Prior to the final consideration of S 1074aa in the Senate, the Attorney General was asked for his opinion on (1) Whether the amendments can be construed to allow the State Racing Commission to authorize simulcast wagering in any county wherein no licensee has complied with the live racing requirements and (2) Could S 1074aa allow simulcast wagering to be conducted in any county by a licensee that was licensed by the State Racing Commission to conduct live horse racing?

The Attorney General responded that other than the facility grandfathered in 1996, simulcast wagering cannot be authorized by anyone who has not complied with the live racing requirements. Also, S 1074aa applies only to facilities licensed prior to 1996 to conduct live dog racing and should not expand nor contract the rights of licensees of horse racing.

This legislation is supported by Kootenai County and it is important and essential.

CON

Ms. Deborah Hope, President and Co-founder of Citizen’s Against Greyhound Racing, testified in opposition to S 1074aa. She said she has watched the horse racing industry come the past 10 years asking for more gambling. Her organization believes that what is going on at the Post Falls facility is illegal.

She disagreed with the fiscal impact. The percentage of all simulcasting in the state is distributed at the end of the year. If this facility is closed, the fiscal impact would amount to a \$12,000 loss.

Mr. Westerberg was asked if we have to worry about opening the door for simulcast racing in the entire state. He pointed out that in the Attorney General’s memo dated February 23, 2005 it states his review of the Code “indicates that the “grandfather” clause allowing for simulcast and simulcast pari-mutual wagering only applies to facilities licensed: (1) prior to January 1, 1996, and; (2) conducting dog racing at that time – not horse racing”.

“Because the proposed amendment only applies to “grandfathered” licensees of dog races prior to January 1, 1996, it should not expand nor contract the rights of licensees of horse racing.

MOTION:

Representative Jones made a motion to SEND S 1074aa to the floor with a DO PASS recommendation. He indicated that based on the above statement, he is comfortable with the legislation. **Representatives Clark and Nonini** will sponsor **S 1074aa** on the floor.

Chairman Deal informed the Committee that all of the Committee’s business has been concluded unless a Senate bill comes over or the Speaker sends

legislation to the Committee.

ADJOURN: There being no more business to come before the committee, the meeting was adjourned at 9:37 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 22, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** None

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

Chairman Deal called the meeting to order at 9:04 A.M. with a quorum being present. The minutes of March 21, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to adopt the minutes of March 21, 2005 as printed. The motion carried by voice vote.

S 1174 **Senator Brad Little** spoke in support of **S 1174**. This bill basically plugs some significant holes we have in our "Sunshine Law" and provides for disclosure of those responsible for "electioneering communications", similar to existing sunshine laws for candidates. A recent Supreme Court case, McConnell vs. FEC addressed how to regulate those communications which are not express advocacy, and therefore have previously been exempt from any disclosure requirement.

It is patently unfair that an individual or group can spend \$5-15,000 during the closing days of an election and not have to disclose this contribution. This legislation defines electioneering communications, (comparable to federal law), but it does not prohibit electioneering communications – it simply provides for their disclosure.

This legislation pertains to communications of all types that unambiguously refer to any candidate, but not to news articles or communications made in the normal scope of business. It places electioneering communications under the 48-hour rule the same as candidates. The last three sections apply to county, city and magistrate retention elections.

This legislation is not perfect, given the creativity of people who like to get involved, but it is a step in the right direction.

In response to a question about distributing 100 copies of a significant article in the neighborhood and whether this would require disclosure, it was clarified that if you unambiguously refer to a candidate in any way on the article, it would fall under this legislation.

PRO **Secretary of State, Ben Ysursa**, testified in support of **S 1174**. This

legislation is about disclosure of campaign ads. It does not prohibit any ads, nor is it trying to prohibit speech. For the first time, because of the U.S. Supreme court decision upholding the McCain-Feingold Bill, the State can require disclosure of issue ads. Issue ads are those ads that we all know support or oppose a candidate but don't use the "magic words" of vote for, elect, etc. They usually end in saying contact "so and so" and let them know how you feel.

Section 1 of the bill defines a new type of campaign advertising, "electioneering communications" patterned after the federal law which basically states that communications which reference a candidate 30 days before a primary or 60 days before a general election must be identified and disclosed. Page 2, Lines 35-49 specify what electioneering communication does not include, making it clear that communications by persons made in the regular course and scope of their business are not included. Page 4, Lines 16-20 contain a key provision to require disclosure of \$1,000 electioneering communication within 48 hours after it is incurred. Last minute attacks demand quick disclosure.

This bill is similar to a Colorado bill that pre-dated the McConnell case. This bill will not stop last minute smear ads, but it will require disclosure of who paid for such ads. It is not perfect, but it is a good first step to require those faceless individuals behind "sham issue ads" to come clean.

A question was asked about the impact of this legislation on the Winder situation. Mr. Ysursa said who knows if it will get a substantive review. If the argument is made that it was not express advocacy, it would take that situation out of the picture. This legislation would cover campaigns in the future.

CON

Ms. Marty Durand, Legislative Counsel for the American Civil Liberties Union of Idaho, testified in opposition to S 1174, asking the bill be held. Attachment 1 contains Ms. Durand's full testimony. In summary, her organization believes that the definition of electioneering communications on Page 2, Line 36 significantly extends the reach of the disclosure requirement upheld by the recent Supreme Court's McConnell decision. It is felt (1) this definition captures communications that are delivered through traditional mediums, not having the power of broadcast ads; and (2) this definition would reach a telephone call or e-mail correspondence between friends discussing a candidate or even the activities of someone going door to door to distribute literature.

Other concerns are that the reporting requirements are too broad, and the disclosure required on Page 4, Line 7 is triggered by the communication itself, not by the identity of the speaker or by the amount of money expended on the communication. The disclosure statutes that have been upheld all reference the amount of the expenditure as the triggering mechanism, not the speech itself. A concern is that the reporting requirement would inevitably lead to the disclosure of constitutionally protected anonymous political speech.

In response to a question about whether the language on Page 4, Lines 11-15, specifying the amounts of \$50 and \$100, would be considered the trigger, Ms. Durand referred to Page 4, Lines 6-8, that reads "Any person who conducts or transmits any electioneering communication shall be

required to file a statement on a form provided by the Secretary of State.” This language says nothing about a dollar amount.

Mr. Ysursa answered the same question. The legislation’s intent was that if the expenditure was less than \$100, there would be no statement filed with the Secretary of State.

A committee member said they read the legislation as Ms. Durand does, and asked what she feels is a reasonable threshold. She said she believes \$500 would be reasonable. It was reiterated that they feel e-mail and phone calls would fall within the definition.

PRO

Mr. Chuck Winder, citizen representing himself, testified in support of S 1174. He said everything said in the previous debate both for and against this legislation is why this needs to be taken care of. If a person can call thousands of people the night before an election, they should have to register. They need to come forward and identify themselves. Mr. Winder recommended full support of this legislation.

Mr. Brian Kane, Attorney General’s Office, said he echos what has been said by the Secretary of State. He explained that the courts don’t take one line out of a statute to reach their decision – they consider the entire statute. It is an individual’s right to know who is participating in the process and who is behind each candidate. This does not have anything to do with e-mails, but it does pertain to telephone calls and ads that are broadcast into the privacy of your own home.

Mr. Kane was asked if language could be added indicating the amount of expenditures to clarify the position more fully. He said you could do that but this would create a redundancy in statute. If this is not clear it can be revisited, but this is a good measure to get started with.

Senator Little closed by saying one of the issues in 6630 is that those reports are filed after the election. The thread for corrupting is in the 48-hour, \$1,000 rule and this is the critical time frame. This legislation would make sure in the last 48-hours there isn’t a stealth measure going on.

MOTION:

Representative Ellsworth made a motion to send **S 1174** to General Orders to allow time for the sponsors to clarify the language on Line 6.

Mr. Ysursa yielded to a question. He was asked if this legislation passes as written and something is challenged in the first five sections, would that nullify the next section. Mr. Ysursa said that in reality, these things would hit the fan once the regulatory agency (the Secretary of State’s Office in this case) determines. Any expenditure between 0-\$100 would have no impact as they look at this. The court is under duty to deem legislation constitutional and to uphold the statutes. This area is very unique because of the First Amendment.

SUBSTITUTE MOTION:

Representative Black made a substitute motion to send **S 1174** to the floor with a DO PASS recommendation.

Representatives Smylie, Jones and Miller debated in favor of the substitute motion. Reasons given were satisfaction with the Attorney Generals and

Secretary of State's interpretations, the need to move forward on this now because city elections are coming up, and the need to plug the hole in the sunshine law.

Representative Hart spoke in favor of the original motion to send S 1174 to General Orders because this legislation as it reads now may discourage people from getting involved with helping candidates.

It was clarified that the requirement for candidates to file a report when spending over \$1,000 is in existing law. This section of law also applies to city elections.

**VOTE ON
SUBSTITUTE
MOTION:**

A vote was called for on the substitute motion to send S 1174 to the floor with a DO PASS recommendation. The motion carried by voice vote. Representatives Loertscher and Hart were recorded as voting "NAY". **Representative Miller** will sponsor **S 1174** on the floor.

ADJOURN:

Chairman Deal informed the Committee that there will be no meeting tomorrow unless they receive an agenda. There being no more business to come before the committee, the meeting was adjourned at 9:50 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES

HOUSE STATE AFFAIRS COMMITTEE

DATE: March 28, 2005

TIME: 9:00 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Anderson

GUESTS: Please refer to the Committee sign-in sheet.

Chairman Deal called the meeting to order at 9:03 A.M. with a quorum being present. The minutes of March 22, 2005 were reviewed.

MOTION: **Representative Ring** made a motion to approve the minutes of March 22, 2005 as printed. The motion carried by voice vote.

H 376 **Representative Scott Bedke** was present to speak in support of **H 376**.

MOTION: **Representative Ellsworth** made a motion to send **H 376** to the floor with a DO PASS recommendation. This legislation was before the Ways and Means Committee last week for a print hearing, and its purpose is simply to correct existing code by adding the word "independent".

In response to Representative Ring's question about what an intermodal commerce authority is, Representative Bedke explained that it is an economic development tool without property taxing ability. This tool is used to site and keep businesses in communities, allowing them to be competitive. In the Burley and Rupert area, businesses are lined up to site there. This legislation passed last year as S 1439, but it was discovered that the word "independent" had been omitted from the definition of intermodal commerce authorities.

Representative Miller pointed out that "therefor" on Line 21 may need to be spelled "therefore". Chairman Deal asked Representative Bedke to check on this.

VOTE ON THE MOTION: A vote was called for on the motion to send **H 376** to the floor with a DO PASS recommendation. The motion carried by voice vote. **Representative Bedke** will sponsor **H 376** on the floor.

ADJOURN: There being no further business, the meeting was adjourned at 9:09 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: March 31, 2005

TIME: 9:30 A.M.

PLACE: Room 412

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

**ABSENT/
EXCUSED:** Representative Hart

GUESTS: Mrs. Ken Andrus and Mr. Jim Shepherd were introduced.

Chairman Deal called the meeting to order at 9:39 A.M. with a quorum being present. The minutes of March 28, 2005 were reviewed.

MOTION: **Representative Shepherd(2)** made a motion to accept the minutes of March 28, 2005 as written. The motion carried by voice vote.

SJM 111 **Representative Darrell Bolz** spoke in support of **SJM 111**. The purpose of this legislation is to ask Congress to review current immigration policy and to examine enforcement of that policy.

It is estimated that half a million illegal aliens are entering the United States each year, and there are now about 10 million illegal aliens in the United States. The costs of supporting the illegal aliens fall directly on the states, counties and hospitals.

Representative Bolz emphasized that this legislation does not pinpoint any segment of the population. The current immigration policy is fraught with unintended consequences, and the immigration system is broken. This legislation asks Congress to comprehensively review current immigration policy and to seek reasonable revisions.

MOTION: **Representative Smylie** made a motion to send **SJM 111** to the floor with a DO PASS recommendation. The motion carried by voice vote. Representative Pasley-Stuart asked to be recorded as voting "NAY". **Representative Bolz** will sponsor **SJM 111** on the floor.

Chairman Deal took a few minutes to thank Rachael Lorcher, Page, Karen Daniels, Secretary, and the Committee members for their work this session. He also explained that per the Chief Clerk, we do not need to meet to approve today's minutes. There will be no further meetings this session unless we receive another bill.

ADJOURN: There being no further business, the meeting was adjourned at 9:41 A.M.

Representative Bill Deal
Chairman

Karen Daniels
Secretary