

Senate Commerce & Human Resources Committee

Minutes  
2005



## MINUTES

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

**DATE:** January 7, 2005

**TIME:** 8:30

**PLACE:** Room 416

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

**ABSENT/  
EXCUSED:** Senator Compton

**GUESTS:** See Attachment A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

equally for equal work done.

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

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

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

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

The meeting recessed at 12:30 for lunch.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Requests for information were made from various Committee members.

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

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

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

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

The next meeting will be at the call of the Chair

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

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Representative Robert Schaefer  
Vice Chairman

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Senator John Andreason  
Vice Chairman

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Janet Bryant  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** January 13, 2005
- TIME:** 1:30 PM
- PLACE:** Room 437
- MEMBERS:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- ABSENT/  
EXCUSED:**
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:37 PM
- MINUTES:** **Chairman Andreason** recognized **Janet Cook** on her return for a second session as committee secretary. The Chairman also introduced our committee Page, **Sarah Fuger**, and welcomed our new committee members, **Senator Broadsword** and **Senator Coiner**.
- Chairman Andreason** asked **Senator Coiner** to address Rules Review.
- Senator Coiner** assigned sub-committees for Rules Review. (See attached)
- Chairman Andreason** then recognized **Alan Winkle of PERSI** to speak to the committee on RS14392, RS14393, and RS14402C1. Mr. Winkle stated these RS's were basically housekeeping order.
- RS14392** Moves what is now in rules to code amount, terms and conditions of benefits as they are revised from time to time. Application of such revisions shall be prospective only and not retrospective or retroactive unless otherwise provided by statute. Unless otherwise provided, a member's benefits are determined based upon the terms of the plan on the date of the member's last contribution as an active member.
- MOTION:** **Senator Stegner** made the motion and **Senator Compton** seconded that RS14392 be sent to print. The motion carried by a voice vote.
- RS14393** Outlines the power of the Board. This will provide that the Board shall obtain all audit and other services it deems appropriate, to provide for a general investigation every four years, and to provide that the Board shall adopt the Assumptions in use by the System, and that an independent financial audit shall be conducted annually or as frequently as determined by the board.
- MOTION:** **Senator Werk** made the motion and **Senator Compton** seconded that RS14393 be sent to print. The motion carried by a voice vote.

**RS14402C1** To revise the definitions applicable to Police Officers membership status for purposes of retirement. This provides clarification in defining positions. Example: Paramedics will change to Emergency Medical Technicians, Telephone Operators to Dispatchers. All to be consistent with current usage in other state statutes, rules and policies.

**MOTION:** **Senator Malepeai** made the motion and **Senator Stegner** seconded that RS14402C1 be sent to print. The motion carried by a voice vote.

**Chairman Andreason** then recognized Kim Coster of the Real Estate Commission to introduce RS14480, RS14384, and RS14479C1. (See attached)

**RS14480** This bill will provide Heightened Requirements for Designated Brokers and Branch Office Managers. (See attached)

**RS14384** Regarding the Statutory Cap for Group Errors and Omissions Insurance. (See attached)

**Senator Stegner** suggested the statute be put into Rules.

**RS14479C1** The Commission's Annual Continuing Education Housekeeping Bill (See attached)

**MOTION:** **Senator Compton** made the motion and **Senator Werk** seconded that RS14480, RS14384, and RS14479C1 be sent to print. The motion carried by a voice vote.

**Chairman Andreason** then spoke to the committee regarding future meetings and the time frame available to conduct business. Many of the members are on other committees that begin meetings at 3:00 PM. Our meeting room will also be used by another committee at 3:00 PM.

**ADJOURN:** **Chairman Andreason** adjourned the meeting at 2:10 PM.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** January 18, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Werk

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

**MINUTES:** **Chairman Andreason** introduced and welcomed **Kala Christofferson** and **Jason Fitch** as interns to the committee.

**Chairman Andreason** then introduced Gubernatorial Appointee, **Mr. John T. Cowden** to the Idaho Personnel Commission. Mr. Cowden spoke to the committee regarding his qualifications of 15 years in Finance and Personnel with Boise Cascade. He worked on projects with Governor Kempthorne when he was Mayor of Boise, and has worked on several projects with Ann Heilman of the Division of Human Resources regarding personnel issues. The committee will take action at our next meeting.

**Chairman Andreason** then called on **Woody Richards** representing the Idaho Life and Health Guaranty Association to introduce RS14513

**RS14513** Legislation to limit the rate of interest for which the Guaranty Association is obligated to pay and thereby make Idaho's law consistent with most of the other states. The legislation will also clarify that the Guaranty Association is not obligated to pay claims outside the express written terms of the contract issued by the insolvent insurer, which is also consistent with laws passed in most of the other states. In addition, the legislation would combine Class B and Class C assessments and clarify the Guaranty Association's options with regard to assessments and refunds. (Please see testimony attached)

**MOTION:** **Senator Compton** made the motion and **Senator Stegner** seconded that RS14513 be sent to print. The motion carried with a Voice Vote.

**Woody Richards**, representing the Consumer Lending Alliance then introduced RS14581 to the committee regarding Title Loans.

**RS14581** Legislation to define "short-term vehicle equity loan" and to make such loans subject to the regulated loan provisions of the Idaho Credit Code. The legislation also clarifies licensing requirements and limits the obligations of borrowers. In addition, the legislation describes procedures for making

short-term vehicle equity loans, limits the kinds of fees that may be charged, allows for consumer information pamphlets, time restrictions for release of liens after payment is received by the lender, disclosure requirements by lenders, and limitations on renewals of loans. Finally, the legislation is intended to restrict the number of short-term vehicle equity loans that can be outstanding at any one time and to limit the remedies for a lender in the event of default. (Please see testimony attached)

**MOTION:** **Senator Stegner** made the motion and **Senator Malepeai** seconded that RS14581 be sent to print. The motion carried with a Voice Vote. Two committee members voted against the motion. **Senator Broadsword** wanted to go on record as voting no. She didn't feel that she knew enough about this legislation.

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

**Vice Chairman Coiner** recognized **Marilyn Chastain**, Securities Bureau Chief with the Department of Finance to review Rule 12-0108-0401 and Rule 12-0108-0402.

**12-0108-0401** Repeal of these rules is necessary to implement the new Uniform Securities Act 2004, which will provide significant protections to investors, businesses and the proper operation of the securities markets.

**12-0108-0402** Takes the place of 12-0108-0402 to implement the new Uniform Securities Act (2004) These rules govern the registration of securities and investment professionals, exemptions from the registration requirements, fraud and liabilities in connection with securities transactions, and administrative and judicial review procedures.

**MOTION:** **Senator Cameron** made a motion, and **Senator Compton** seconded it that the committee approve 12-0108-0401 and 12-0108-0402. The motion carried with a Voice Vote.

**Vice Chairman Coiner** then recognized **Helen Harrington**, Secretary of the Board of Registration of Professional Geologists regarding 14-0101-0401.

**14-0101-0401** The Board of Registration of Professional Geologists requests approval of rule to show a mandatory change of office location to 3350 Americana Terrace, Suite 243, Boise, Idaho 83706 due to flooding.

**MOTION:** **Senator Compton** made a motion, and **Senator Stegner** seconded that the committee approve 14-0101-0401. The motion carried with a Voice Vote.

**Vice Chairman Coiner** then asked for introductions of Rules for the Department of Insurance. **Gary Smith**, Director of the Department of Insurance introduced **Mark Larson** to speak on 18-0150-0401 and **Shad Priest** to speak on 18-0156-0401.

**18-0150-0401** This rule was promulgated to adopt the 2003 edition of the International Fire Code, a companion code to the 2003 edition of the International Building Code adopted by the Legislature in the last session. The changes reflected in this adoption were generated by requests from the "fire service"



throughout Idaho. The exception added to the section dealing with automatic sprinkler systems in residential occupancies reflects the changes to the corresponding section of the International Building Code passed last year. (See Attached)

**MOTION:** **Senator Broadsword** made a motion, and **Senator Compton** seconded that the committee approve 18-0150-0401. The motion carried with a Voice

**18-0156-0401** **Shad Priest** spoke to this Pending Rule regarding Rebates and Illegal Inducements to Obtaining Title Insurance Business. (Please See Attached)

**MOTION:** **Senator Compton** made a motion, and **Senator Broadsword** seconded that the committee approve 18-0156-0401. The motion carried with a Voice Vote.

**Vice Chairman Coiner** asked for the Bureau of Occupational Licenses rules. **Mr. Roger Hales** presented rules for the Bureau.

**24-0101-0401** Rules of the Board of Architectural Examiners do three things. (1)Change the Web address for Occupational Licenses (2) Clarify the intern development program as it applies to non-degree architects. (3) Establish a continuing education requirement.

**MOTION:** **Senator Cameron** made a motion, and **Senator Goedde** seconded that the committee approve 24-0101-0401. The motion carried with a Voice Vote.

**24-0201-0401** Rules of the Board of Barber Examiners is a Pending Fee Rule, however is a reduction of a fee. The fees were reduced in an attempt to bring the reserve fund for this board, which auditors advised was significantly larger than recommended, into balance. Also a Web address change.

**MOTION:** **Senator Goedde** made a motion, and **Senator Compton** seconded that the committee approve 24-0201-0401. The motion carried with a Voice Vote.

**24-0701-0401** Rules of the Idaho State Board of Landscape Architects Board also had a Web site change. This rule also calls for an increase of the annual license renewal fee from \$100 to \$125 to help increase this boards funds.

**MOTION:** **Senator Compton** made a motion, and **Senator Stegner** seconded that the committee approve 24-0701-0401. The motion carried with a Voice Vote.

**24-1801-0401** Rules of the Idaho Board of Real Estate Appraisers include a Web site change for the Bureau. This is also a housekeeping rule dealing with definitions and continuing education. USPAP course is being defined as National USPAP course and Federal Oversight prohibits carryover of continuing education hours.

**MOTION:** **Senator Compton** made a motion, and **Senator Stegner** seconded that the committee approve 24-1801-0401. The motion carried with a Voice Vote.

**24-1801-0501** Rules of the Idaho Board Real Estate Appraisers is a housekeeping rule as mandated by Federal requirements the educational credit for classroom hours is being changed from The Appraisal Foundation to the Qualifications Board.

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

It was requested by **Senator Cameron** that in further review of the Rules it would be helpful to have rule types categorized together and page numbers included.

**ADJOURNMENT**   The meeting adjourned at 3:02 PM.

/s/ John C. Andreason

Senator John Andreason  
Chairman

/s/ Janet Cook

Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** January 20, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Werk (Arrived from the Airport the last 15 minutes of the meeting)  
Senator Goedde

**CONVENED:** **Vice Chairman Coiner** called the meeting to order at 1:35 PM.

**MINUTES:** **Vice Chairman Coiner** opened the meeting for discussion of Gubernatorial Appointee **John T. Cowden** to the Idaho Personnel Commission.

**MOTION:** **Senator Compton** made the motion, and **Senator Malepeai** seconded it to send this appointment to the Floor. The motion carried with a Voice Vote.

**Vice Chairman Coiner** then called for Rules Review for the Industrial Commission and recognized **Commissioner Thomas Limbaugh**.

17-0602-0401 Boiler and Pressure Vessel Safety Rules-Administration. (Please see attached testimony)

**MOTION:** **Senator Compton** made the motion, and **Senator Broadsword** seconded it for the committee to approve 17-0602-0401. The motion carried with a Voice Vote.

17-0701-0401 Safety Rules for Elevators, Escalators and Moving Walks. This pending rule repeals the Elevator Safety Rules under the Industrial Commission's authority. Following the passage of the Elevator Safety Code Act last session, the Division of Building Safety now has the full authority.

**MOTION:** **Senator Cameron** made the motion, and **Senator Andreason** seconded it for the committee to approve 17-0701-0401. The motion carried with a Voice Vote.

**Vice Chairman Coiner** introduced **Dwight Johnson** of the Department of Commerce and Labor for their rules.

09-0130-0401 Rules of the Benefits Bureau regarding electronic signatures. (See Attached)

**MOTION:** **Senator Cameron** made the motion, and **Senator Malepeai** seconded it for the committee to approve 09-0130-0401. The motion carried with a Voice Vote.

09-0130-0402 Rules of the Benefits Bureau regarding Holiday Pay. (See Attached)

**MOTION:** **Senator Broadsword** made the motion, and **Senator Cameron** seconded

- it for the committee to approve 09-0130-0402. The motion carried with a Voice Vote.
- 09-0135-0401 Rules of the Employer Accounts Bureau clarifying penalty waivers. (See Attached)
- MOTION:** **Senator Cameron** made the motion, and **Senator Compton** seconded it for the committee to approve 09-0135-0401. The motion carried with a Voice Vote.
- 09-0135-0402 Rules of the Employer Accounts Bureau deals with how the Department handles Professional Employer Organizations (See Attached)
- MOTION:** **Senator Compton** made the motion, and **Senator Broadsword** seconded it for the committee to approve 09-0135-0402. The motion carried with a Voice Vote.
- 09-0204-0401 Idaho Gem Community Implementation Grant Program regarding the Governor's Rural Initiative. (See Attached)
- Senator Cameron** made the suggestion that the committee hold this rule until the next meeting to allow time to conduct an inquiry regarding the use of the Governor's name in a rule. The committee was in agreement to hold this rule until the next meeting.
- 09-0210-0401 Rules of the Idaho Aquifer Mitigation Grant Program is a temporary rule and the Department requests no action from the committee. (See Attached)
- Vice Chairman Coiner** introduced **David Curtis** of the Board of Professional Engineers and Land Surveyors.
- 10-0102-0401 Rules of Professional Responsibility (See Attached)
- MOTION:** **Senator Andreason** made the motion, and **Senator Compton** seconded it for the committee to approve 10-0102-0401. The motion carried with a Voice Vote.
- Vice Chairman Coiner** then introduced **Dave Munroe** of the Division of Building Safety. **Mr. Munroe** introduced **Gary Malmen** to speak to the committee on rules governing the Electric Bureau and **Ted Hogander** to speak on HVAC rules.
- 07-0103-0401 Rules of Electrical Licensing and Registration regarding apprentice continuation training. (See Attached)
- MOTION:** **Senator Stegner** made the motion, and **Senator Andreason** seconded it for the committee to approve 07-0103-0401. The motion carried with a Voice Vote.
- 07-0103-0402 Rules of Electrical Licensing and Registration to increase experience to 4 years for master electricians. (See Attached)
- MOTION:** **Senator Cameron** made the motion, and **Senator Malepeai** seconded it for the committee to approve 07-0103-0402. The motion carried with a Voice Vote.
- 07-0104-0401 Rules Governing Electrical Specialty Licensing for Well Drillers and Water

Pump Installers. (See Attached)

**MOTION:** **Senator Malepeai** made the motion, and **Senator Compton** seconded it for the committee to approve 07-0104-0401. The motion carried with a Voice Vote.

07-0105-0401 Rules Governing Examinations (See Attached)

**MOTION:** **Senator Broadsword** made the motion, and **Senator Compton** seconded it for the committee to approve 07-0105-0401. The motion carried with a Voice Vote.

07-0106-0403 Rules Governing the use of National Electrical Code (See Attached)

**MOTION:** **Senator Malepeai** made the motion, and **Senator Andreason** seconded it for the committee to approve 07-0106-403. The motion carried with a Voice Vote.

07-0701-0401 Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems allowing for staggered contractor and journeyman certification. (See Attached)

**MOTION:** **Senator Compton** made the motion, and **Senator Stegner** seconded it for the committee to approve 07-0701-0401. The motion carried with a Voice Vote.

07-0701-0402 Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems Requirements for Contractors.

**Dave Munroe** requested that the committee defer discussion on this rule until January 27<sup>th</sup>, so that the Building Safety Board at their January 25<sup>th</sup> meeting might clarify contractor's definition in this rule. This rule was so differed to the January 27<sup>th</sup> committee meeting.

07-0701-0403 Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems deleting a rule that conflicts with Statute. (See Attached)

**MOTION:** **Senator Compton** made the motion, and **Senator Werk** seconded it for the committee to approve 07-0701-0403. The motion carried with a Voice Vote.

07-0701-0501 Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems incorporating IMC, IFGC, and IRC with amendments to all three to be plumbing and electrical statutes. (See Attached)

**MOTION:** **Senator Andreason** made the motion, and **Senator Compton** seconded it for the committee to approve 07-0701-0501. The motion carried with a Voice Vote.

**ADJOURNMENT** The meeting adjourned at 2:40 PM.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** January 25, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Chairman Andreason,

**CONVENED:** **Vice Chairman Coiner** called the meeting to order at 1:35 PM

**MINUTES:** **Senator Malepeai** made the motion and **Senator Compton** seconded it that the committee accept the Minutes of **January 18, 2005**. The motion carried with a **Voice Vote**.

**MINUTES:** **Vice Chairman Coiner** said he had read the Minutes of January 20, 2005 and they were in order to be approved. **Senator Goedde** made the motion to accept the Minutes of **January 20, 2005**, and **Senator Malepeai** seconded it. The motion carried with a **Voice Vote**.

**Gubernatorial Appointment** **Vice Chairman Coiner** welcomed **Clifford Hayes** to the committee to speak on his Gubernatorial Appointment to the Public Employee Retirement System of Idaho Board.

**Mr. Hayes** is from Post Falls, Idaho and is currently employed by the Post Falls Police Department. He has been with that department for 21 years. Prior to working with the Police Department, Mr. Hayes worked for the Kroger Company.

**Senator Compton** asked to speak on Mr. Hayes behalf regarding his appointment. He spoke of his community involvement, and programs that Mr. Hayes started, such as the Post Falls Community Volunteers. Senator Compton said Mr. Hayes is an extraordinary man and he would be honored to sponsor his appointment on the Floor. His appointment will be discussed and voted upon at the next committee meeting.

**MINUTES:** **Senator Werk** made the motion and **Senator Cameron** seconded it that the committee accept the Minutes of **January 13, 2005**. The motion carried with a **Voice Vote**.

**09-0204-0401** Rules Review was next on the Agenda and **Vice Chairman Coiner** recognized **Dwight Johnson** with the Department of Commerce and Labor to clarify pending rule 09-0204-0401-Idaho Gem Community Implementation Grant Program regarding the inclusion of the Governor's name. The Department requested acceptance of the Rule with the understanding that adjustments would be made and the Department would come back next year

with the changes stipulated.

**MOTION:** **Senator Cameron** made the motion and **Senator Malepeai** seconded it to accept 09-0204-0401. The motion carried with a **Voice Vote**.

**Vice Chairman Coiner** then introduced **Barbara Porter** of the Idaho Board of Accountancy to speak on 01-0101-0401 and 01-0101-0402.

**01-0101-0401** This rule was a temporary rule last year and returns this year for final action. This rule updates the rule that incorporates national standards by reference. (See Attached)

**01-0101-0402** This rule updates the standards in the prior rule. It changes references from AICPA-SECPS (American Institute of CPAs-Security Exchange Commission Practice Section to AICPA Center for Public Company Audit Firms.) (See Attached)

**MOTION:** **Senator Compton** made the motion and **Senator Malepeai** seconded it to accept 01-0101-0401 and 01-0101-0402. The motion carried with a **Voice Vote**.

**Vice Chairman Coiner** introduced **Donna Jones** of the Real Estate Commission to speak on 33-0101-0401.

**33-0101-0401** This is a temporary rule by the Real Estate Commission to reduce the individual licensing fee by \$20.00 per bi-annual licensing period.

**MOTION:** **Senator Malepeai** made the motion and **Senator Werk** seconded it to accept 33-0101-0401. The motion carried with a **Voice Vote**.

**S1008** **Donna Jones** then gave testimony for S1008 a bill to heighten requirements for designated Brokers and Branch Office Managers. (See Attached)

**MOTION:** **Senator Stegner** made the motion and **Senator Werk** seconded it to send **S1008** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Werk** will sponsor the bill on the Floor.

**S1009** This is a proposal by the Real Estate Commission regarding Errors and Omissions Insurance in raising the Statutory Cap. (See Attached)

**MOTION:** **Senator Goedde** made the motion and **Senator Compton** seconded it to send **S1009** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Coiner** will sponsor the bill on the Floor.

**S1010** This is the Real Estate Commission's "Annual Housekeeping Bill" to correct inconsistencies, update provisions, and make clarifications. (See Attached)

**MOTION:** **Senator Compton** made the motion and **Senator Stegner** seconded it to send **S1010** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Broadsword** will sponsor the bill on the Floor.

**Vice Chairman Coiner** then introduced **Roger Madsen** and **Dwight Johnson** of the Department of Commerce and Labor to speak to the committee on H0004.

**H0004** 2005 Unemployment Insurance legislation creating a more balanced and

equitable Unemployment Insurance System for Idaho (See Attached)

**Senator Broadsword, Senator Goedde, and Senator Malepeai** commended the Department and the committee for the presentation packet and all of the hard work in developing this consensus legislative package.

**MOTION:**

**Senator Goedde** made the motion and **Senator Malepeai** seconded it to send **H0004** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Andreason, Senator Goedde, and Senator Malepeai** will sponsor the bill on the Floor.

**Director Madsen** added for the benefit of the committee that they might receive questions from constituents or claimants. The Department will help in answering any questions in regard to this legislation.

**Vice Chairman Coiner** asked **Tom Andreason** if he could relay any news of his mother. Mr. Andreason said they had run a series of tests with more planned, and that Chairman Andreason has been with her at the hospital.

**ADJOURNMENT** The meeting adjourned at 2:41 PM.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary



## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** January 27, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:38 PM
- MINUTES:** **Senator Goedde** made the motion and **Senator Coiner** seconded it to accept the Minutes of January 25<sup>th</sup>, 2005 as written. The motion carried with a **Voice Vote**.
- Gubernatorial Appointment** **Chairman Andreason** then asked for comments, and discussion on the Gubernatorial Appointment of **Clifford T. Hayes** of Post Falls, ID to the Public Employee Retirement System of Idaho Board to serve a term commencing July 1, 2004 and expiring July 1, 2009.
- MOTION:** **Senator Compton** made the motion, and **Senator Broadsword** seconded it to send this appointment to the Floor. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor **Mr. Hayes** appointment on the Floor.
- Chairman Andreason** welcomed **R. D. Maynard** to speak to the committee on his appointment to the Idaho Industrial Commission. **Mr. Maynard** first took the opportunity to introduce a fellow commissioner **Mr. James Kyle**, and expressed regrets that **Thomas Limbaugh** was unable to attend because of a conflict with his scheduled House Commerce and Human Resources Meeting testimony.
- Mr. Maynard** stated this was a re-appointment. He was first appointed to the Industrial Commission by Governor Kempthorne in October 1999 and confirmed by the Senate in January 2000. Accomplishments since he has been a commissioner include implementing roll-backs of 15%-18% for fiscal years 2002 & 2003. Work load increases on final order of issues and workers compensation cases between 2003-2004 were up 22%. Mediations of workers compensation rose 30% while still maintaining an 88% settlement rate. Unemployment appeals went up 12% with an average of 39 days appeal decisions, well below the Federal requirement. Idaho is currently ranked in the top10 nationwide for unemployment appeal decisions issues 45 days to receive an appeal. Revenues for 2004 & 2005 are up. The Commission has implemented many changes and improvements, such as Out Reach training programs from employer, insurance companies, and workers throughout the state, plus we have created an Advisory Board. Mr. Maynard answered several questions of the committee and they will take action on his re-appointment at the next scheduled meeting.
- Chairman Andreason** then welcomed **Gary Smith** to speak to the committee on his appointment as Director to the Department of Insurance.

(Please see Mr. Smith's statement of experience attached) Mr. Smith also answered several questions of the committee and any action and discussion on his appointment will be taken at the next scheduled meeting.

**Chairman Andreason** then turned the meeting over to **Vice Chairman Coiner** for Rules Review of the Division of Building Safety. **Vice Chairman Coiner** introduced **Dave Munroe** of the Division.

**07-0701-0402** Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems Requirements for Contractors is a rule that the Division would like for the committee to reject. After a meeting of their HVAC Board on Tuesday, January 25th it was decided they would like to rework the rule and bring it back next year.

**07-0402-0401** **Mr. Monroe** introduced **Robert Brewton** to speak on this rule. **Mr. Brewton** explained this rule was necessary to implement HB569 in which the responsibility for elevator regulation has been moved from the Industrial Commission to the Division of Building Safety. This Rule also addresses inspection requirements and approval of new or alternative technology.

**MOTION:** **Senator Compton** made the motion and **Senator Andreason** seconded it to accept 07-0402-0401. The motion carried with a **Voice Vote**.

**Mr. Ted Hogander**, the Plumbing Bureau Chief then introduced the Rules for Plumbing Safety.

**07-0205-0401** Rules governing Plumbing Safety Licensing to allow staggered apprentice registration is a housekeeping rule.

**MOTION:** **Senator Werk** made the motion and **Senator Andreason** seconded it to accept 07-0205-0401. The motion carried with a **Voice Vote**.

**07-0205-0402** Rules governing Plumbing Safety Licensing to allow staggered contractor and journeyman certification.

**MOTION:** **Senator Compton** made the motion and **Senator Werk** seconded it to accept 07-0205-0402. The motion carried with a **Voice Vote**.

**07-0205-0403** Rules governing Plumbing Safety Licensing is a housekeeping rule to establish apprentice education sequence and hours.

**MOTION:** **Senator Broadsword** made the motion and **Senator Andreason** seconded it to accept 07-0205-0403. The motion carried with a **Voice Vote**.

**07-0206-0301** Rules concerning Uniform Plumbing and is necessary in order to protect the public. The change assures that the most recent version of the Uniform Plumbing Code is adopted for use in the state of Idaho as authorized by Idaho Code.

**MOTION:** **Senator Compton** made the motion and **Senator Stegner** seconded it to accept 07-0206-0301. The motion carried with a **Voice Vote**.

**ADJOURNMENT** The meeting adjourned at 2:55 PM.

/s/ John Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** February 1, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:31 PM
- MINUTES:** **Senator Malepeai** made the motion, and **Senator Coiner** seconded it to accept the Minutes of January 27<sup>th</sup>, 2005 as written. The motion carried with a **Voice Vote**.
- Chairman Andreason** opened the meeting to discussion and to take action on the Gubernatorial Re-Appointment of **RD Maynard** to the Idaho Industrial Commission to serve a term commencing January 13, 2005 and expiring January 13, 2011.
- MOTION:** **Senator Malepeai** made the motion and **Senator Broadsword** seconded it to send the appointment to the Senate Floor for approval. The motion carried with a **Voice Vote**. **Senator Malepeai** will sponsor Mr. Maynard's re-appointment.
- Chairman Andreason** then opened discussion for the Gubernatorial Appointment for **Gary Smith** as Director to the Department of Insurance to serve a term commencing December 1, 2004 and expiring January 7<sup>th</sup>, 2007.
- MOTION:** **Senator Compton** made the motion and **Senator Coiner** seconded it to send the appointment to the Senate Floor for approval. The motion carried with a **Voice Vote**. **Senator Cameron** and **Senator Goedde** will sponsor Mr. Smith's appointment.
- Rules Review** **Chairman Andreason** turned the meeting over to **Vice Chairman Coiner** for Rules Review of the Department of Building Safety. **Dave Munroe** introduced **Jack Rayne** to present some Department Rules.
- 07-0304-0401** Relating to Uniform Mechanical Code deleting the entire chapter as a result of 2004 legislation (HB756), which removed mechanical codes from the Building Code Act.
- MOTION:** **Senator Werk** made the motion and **Senator Broadsword** seconded it to approve **07-0304-0401**. The motion carried with a **Voice Vote**.
- 07-0307-0401** Relating to International Energy Conservation Code deleting this chapter to eliminate redundant language referencing the energy code adopted within Section 39-4109I.C.
- MOTION:** **Senator Broadsword** made the motion and **Senator Werk** seconded it to approve **07-0307-0401**. The motion carried with a **Voice Vote**.

- 07-0309-0401** Relating to Manufactured Home consumer complaints and dispute resolution establishing new criteria for handling consumer complaints and dispute resolution pursuant to 2004 legislation (HB526).
- MOTION:** **Senator Broadsword** made the motion and **Senator Compton** seconded it to approve **07-0309-0401**. The motion carried with a **Voice Vote**.
- 07-0310-0401** Relating to International Residential Code deleting this chapter to eliminate redundant language referencing the Residential Building Code adopted with Section 39-4109I.C.
- MOTION:** **Senator Compton** made the motion and **Senator Malepeai** seconded it to approve **07-0310-0401**. The motion carried with a **Voice Vote**.
- 07-0501-0401** Relating to Public Works Contractors Licensing Board providing for 125 various specialty construction trade definitions for type 4 public works contractor licensing as requested and approved by the Public Works Contractor Licensing Board.
- MOTION:** **Senator Andreason** made the motion and **Senator Compton** seconded it to approve **07-0501-0401**. The motion carried with a **Voice Vote**.
- 07-0601-0301** Relating to the Uniform School Building Safety to update various construction and safety standards to more recent editions.
- MOTION:** **Senator Malepeai** made the motion and **Senator Compton** seconded it to approve **07-0601-0301**. The motion carried with a **Voice Vote**.
- 07-0306-0401** A Pending Fee Rule relating to International Building Code adopting the building permit fee table 1-A published in the 1997 edition of the Uniform Building Code to raise permit and plan review fees an estimated 55% above current levels. The existing fee table 3-A was derived from the 1985 Uniform Building Code through 1990 legislation and is now inadequate to cover existing program costs. These fees only pertain to State Governed Construction.
- MOTION:** **Senator Broadsword** made the motion and **Senator Compton** seconded it to approve **07-0306-0401**. The motion carried with a **Voice Vote**.
- 07-0308-0401** A Pending Fee Rule relating to Commercial Coaches to increase the hourly rate charged by the Building Bureau for commercial coach systems plan reviews from \$20 to \$36, consistent with other existing rules within the Building Bureau.
- MOTION:** **Senator Compton** made the motion and **Senator Malepeai** seconded it to approve **07-0308-0401**. The motion carried with a **Voice Vote**.
- 07-0311-0401** A Pending Fee Rule relating to Manufactured/Mobile Home Industry Licensing to increase licensing fees for the manufactured housing industry by approximately 76% to provide revenue to cover existing licensing program costs. (See Handout)
- MOTION:** **Senator Werk** made the motion and **Senator Malepeai** seconded it to approve **07-0311-0401**. The motion carried with a **Voice Vote**.

**07-0313-0401** A Pending Fee Rule relating to Mobile Home Rehabilitation enabling the Building Bureau to charge an administrative fee (\$50 per each rehabilitation certification) to help defray costs associated with administering the Mobile Home Rehabilitation Act of 1998.

There were many questions regarding this Rule and justification of charging the Mobile Home Owner an additional handling fee when they have been forced into a situation to move and meet rehabilitation standards.

**MOTION:** **Senator Stegner** made the motion and **Senator Werk** seconded it to **REJECT 07-0313-0401**. The motion carried with a **Voice Vote**.

**Mr. Ted Hogander then spoke to the committee** on fee rules for the Bureau 07-0203-0401 and 07-0207-0401.

**07-0203-0401** The fee change sets the minimum rate for the fire sprinkler portion of the multipurpose residential fire sprinkler and domestic water supply system at \$60 dollars or \$4.00 dollars per fire sprinkler head, whichever is greater.

**MOTION:** **Senator Werk** made the motion and **Senator Andreason** seconded it to approve **07-0203-0401**. The motion carried with a **Voice Vote**.

**07-0207-0401** This rule establishes civil penalties not to exceed \$1000 for each count or separate offense, to be paid for violations of Section 54-2606 Idaho Code and administrative rules of the Idaho Plumbing Board.

**MOTION:** **Senator Andreason** made the motion and **Senator Stegner** seconded it to approve **07-0207-0401**. The motion carried with a **Voice Vote**.

Then **Dave Munroe**, Administrator of the Division of Building Safety asked the committee to reconsider 07-0701-0501 and reject subsections relating to unvented fuel-burning room heaters. (See Attached)

**MOTION:** **Senator Stegner** made the motion and **Senator Compton** seconded it to **REJECT 07-0701-0501 Subsections:**

- Subsection 005.01.d., Section 303.3 delete exception 4 - unvented fuel-burning room heaters not installed in Group A, E, I, or R occupancy;
- Subsection 005.01.i., Section 621.4 prohibited locations for unvented fuel-burning room heaters shall not be installed in Group A, E, I, or R occupancy;
- Subsection 006.01.e., Section G2406.2 (303.3 delete exception 4 re: unvented fuel-burning room heaters shall not be installed in a Group A, E, I, or R occupancy;
- Subsection 006.01.i., Section G2445.4 (621.4) Prohibited locations re. Unvented fuel burning room heaters shall not be installed in a Group A, E, I, or R occupancy.

The motion carried with a **Voice Vote**.

**Vice Chairman Coiner** stated to the committee that we were now finished with Rules Review and turned the meeting back over to **Chairman Andreason**.

**Chairman Andreason** then introduced **Alan Winkle** of PERSI to speak to

the committee on **S1005**, **S1006**, and **S1007**.

**S1005** Public Employee Retirement System to revise descriptive language and to clarify the effect of prospective only application of benefit enhancements. (See Attached)

**MOTION:** **Senator Broadsword** made the motion and **Senator Stegner** seconded it to send **S1005** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Broadsword** will sponsor the bill on the Floor.

**S1006** PERSI to include investment committee members for purposes of indemnification, to provide that the board shall obtain all audit and other services it deems appropriate, to provide for a general investigation every four years, to provide that the board adopt the assumptions in use by the system, and to provide that an independent financial audit shall be conducted annually or as frequently as determined by the board. (See Attached)

**MOTION:** **Senator Compton** made the motion and **Senator Werk** seconded it to send **S1006** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.

**S1007** PERSI to revise the definitions applicable to Police Officer membership status for purposes of retirement.

**MOTION:** **Senator Coiner** made the motion and **Senator Compton** seconded it to send **S1007** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Coiner** will sponsor the bill on the Floor.

**Chairman Andreason** then recognized **Woody Richards** representing the Idaho Life and Health Guaranty Association to speak on **S1030**.

**S1030** Relating to the Idaho Life and Health Insurance Guaranty Association Act to Revise application of the chapter and correct terminology. To revise provisions applicable to assessments by the Board of Directors and to provide correct terminology. (See Attached)

**ADJOURNMENT** Because of the time restraints, **S1030** will be held for discussion and action at the next scheduled committee meeting. **Chairman Andreason** adjourned the meeting at 3:00 PM.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

MINUTES

**SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE**

**DATE:** February 3, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Werk  
Senator Malepeai

**CONVENED:** **Chairman Andreason** called the meeting to order at 1:32 PM

**Chairman Andreason** called on **Senator Goedde** to speak to the committee regarding current Industrial Commission Rules.

**17-02-08-031** Regarding Acceptable charges for medical services under the Idaho Workers' Compensation Law.

**17-02-08-032** Regarding billing and payment requirements for medical services and procedures.

**Senator Goedde** asked **Commissioner Tom Limbaugh** to give the committee some background on these rules. (See Attached)

**Senator Goedde** asked the committee to reject these rules with an effective date of July 1, 2005 to force a consensus decision on a fee schedule to determine a maximum allowable reimbursement for a CPT coded service, to adjust values using an acceptable percentage, and to determine the appropriate maximum value using the charge data.

**MOTION:** **Senator Compton** made the motion and **Senator Cameron** seconded it to reject 17-02-08-031 and 17-02-08-032 affective July 1, 2005. The motion carried with a **Voice Vote**. **Michelle McMullen** an administrative rules specialist was asked what needed to be done in order to see that this Rule rejection was carried out. Ms. McMullen explained that a Concurrent Resolution needed to be drafted and sent to the House Commerce and Human Resources Committee.

**S1030** **Chairman Andreason** recognized **Woody Richards**, representing Idaho Life and Health Guaranty Association to continue his presentation from the committee meeting of February 1, 2005 on S1030, relating to the Idaho Life and Health Insurance Guaranty Association Act to revise application of the chapter and correct terminology. To revise provisions applicable to assessments by the Board of Directors and to provide correct terminology. **Mr. Richards** handed out his testimony of February 1, and reviewed the main points of this legislation. (See Attached)

Many of the committee members asked questions regarding this bill. The main concern was voiced by **Senator Cameron**. He asked Mr. Richards

questions regarding past history of the Guaranty Association to repay the consumer the principle of a defaulting company and wanted to know the percentage of interest they have been willing to pay, and how it differs now. Mr. Richards asked Candie Kinch, the Executive Director of the Association to answer that question. Ms. Kinch said now the principle would stay intact but the interest would be adjusted as a percentage of the agreed rates promised by the insolvent company. **Senator Cameron** stated concern for the consumer who buys the contract with the projected rate and the guaranteed rate and expects that the guarantee is going to be there. Is this protecting the carrier as opposed to the consumer? Mr. Richards said the Guaranty Association doesn't cover everything and can not be a 100% guarantor for all possible losses.

**MOTION:** **Senator Stegner** made the motion and **Senator Compton** seconded it to send S1030 to the Floor with a Do Pass recommendation. **Senator Cameron** then made a substitute motion to hold S1030 in committee. **Senator Goedde** seconded the motion. The substitute motion failed with a 3 to 4 roll call vote against holding S1030 in committee. The original motion to send S1030 to the Floor with a Do Pass recommendation carried with a 4 to 3 roll call vote. **Senator Stegner** will sponsor the bill on the Floor.

**RS14497C1** **Senator Goedde** introduced RS14497C1 an amendment to clarify issues relating to the impact and meaning of Idaho Code as it was amended in 1991, and has been subsequently interpreted by the Idaho Industrial Commission. It removes concerns over the absence of a statute of limitations on medical benefits in denied worker's compensation claims.

**MOTION:** **Senator Cameron** made the motion and **Senator Stegner** seconded it to send RS14497C1 to print. The motion carried with a **Voice Vote**.

**RS14496** **Senator Goedde** also introduced **RS14496, legislation** that clarifies that evaluations of permanent physical impairment are to be prepared only by competent individuals, namely qualified physicians.

**MOTION:** **Senator Compton** made the motion and **Senator Cameron** seconded it to send RS14496 to print. The motion carried with a **Voice Vote**.

**H2** **Chairman Andreason** introduced **Dwight Johnson** of the Department of Commerce and Labor to speak to the committee on H2, relating to the Employment Security Law to provide for conformity to the federal requirements governing transfers of experience and assignment of rates. To provide civil penalties for specified violations, felony penalty for specified violations, and definitions. To identify the transfer or acquisition of a business and to provide for interpretation and application of the law in accordance with Federal Guidelines and regulations. (See Attached)

**MOTION:** **Senator Cameron** made the motion and **Senator Broadsword** seconded it to send H2 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Coiner will sponsor the bill on the Floor.**

**H3** Then **Dwight Johnson** spoke to the committee on H3, relating to Advisory Councils to the Department of Commerce and Labor to rename the advisory council, increase membership of the council from six to seven persons. To provide three-year terms for all members, and that one member shall serve in a statewide capacity. To define "Act", correct terminology, and provide that the Workforce Development Council shall serve as an advisory body to the



Department and will prescribe the duties and functions of the Council. (See Attached)

MOTION:

**Senator Cameron** made the motion and **Senator Compton** seconded it to send H3 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.

**ADJOURNMENT** **Chairman Andreason** adjourned the meeting at 2:56 PM.

/s/ John C. Andreason

\_\_\_\_\_  
Senator John Andreason  
Chairman

/s/ Janet Cook

\_\_\_\_\_  
Janet Cook  
Secretary

MINUTES

**SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE**

**DATE:** February 8, 2005  
**TIME:** 1:30 p.m.  
**PLACE:** Room 437  
**MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Goedde, Compton, Broadsword, Werk, Malepeai  
**MEMBERS ABSENT/ EXCUSED:** Senator Cameron, Senator Stegner  
**CONVENED:** **Chairman Andreason** called the meeting to order at 1:33 PM.

The members of the Committee met in room #437. **Chairman Andreason** introduced **Tom Limbaugh** of the Industrial Commission to give the committee a brief overview of what the committee visit would entail. The members then proceeded to the Industrial Commission to meet with members of the Commission along with members of the Advisory Committee.

**Tom Limbaugh** gave an overview of the Industrial Commission and statistics for 2004. (See Attached) (Also included with overview attachment is a copy of the Industrial Commission Advisory Committee on Workers' Compensation Charter)

**ADJOURNMENT** **Chairman Andreason** thanked the Commission, and the members of the Advisory Committee. Our committee returned to the Capitol at 2:52 PM.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** February 10, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Cameron  
Senator Malepeai

**CONVENED:** **Chairman Andreason** called the meeting to order at 1:32 PM

**MINUTES:** **Senator Broadsword** made the motion and **Senator Goedde** seconded it to accept the Minutes of February 1, 2005 as written. The motion carried with a **Voice Vote**.

**Senator Coiner** made the motion and **Senator Goedde** seconded it to accept the Minutes of February 3, 2005 as written. The motion carried with a **Voice Vote**.

**Senator Goedde** made the motion and **Senator Coiner** seconded it to accept the Minutes of February 8, 2005 as written. The motion carried with a **Voice Vote**.

**S1092** **Chairman Andreason** asked **Senator Goedde** to speak to the committee on S1092. **Senator Goedde** explained this bill would remove concerns over the absence of a statute of limitations on medical benefits in denied worker's compensation claims. **Senator Goedde** asked Attorney **Jon Bauman** to give a more in-depth explanation. Mr. Bauman explained to the committee that because of a Supreme Court decision and the Industrial Commission's description a situation developed where a claim of worker's compensation was denied, the claimant would have so many years to file a complaint or else the claim is barred. However, because these two decisions were coupled together a loophole was created so in fact a claimant can come back years later and seek medical benefits even if the claim was denied. What this bill does is close that loophole.

**MOTION:** **Senator Broadsword** made the motion, and **Senator Werk** seconded it to send **S1092** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill on the Floor.

**S1093** **Senator Goedde** explained this legislation would clarify the evaluations of permanent physical impairment relating to worker's compensation benefits, stating that "medical appraisal" of permanent impairment shall only be made by a qualified physician. **Senator Goedde** asked **Jon Bauman** to explain further. (See "Idaho Employers Are Entitled to a Doctor's Determination-Not

a Lawyer's Guess" Attached) (See also "Idaho Statutes" Attached)

**Chairman Andreason** then recognized **Lynn Luker** an attorney, representing the Idaho Trial Lawyers Association, who has worked with worker's compensation cases for 22+ years, and spoke in opposition of this legislation. Mr. Luker explained in workmen's compensation cases for awards there is an impairment rating in a percentage form. Most ratings are taken from AMA guidelines, which have become more and more complicated, to the point that many physicians don't want to deal with them and will not give a rating. If a claimant has to find a physician to get a rating it could become very costly. The Industrial Commission has studied these guidelines and they can best use their discretion to determine the rating. Through much discussion and many questions from the committee members, Mr. Luker expressed S1093 with the use of "Evaluations of Permanent Impairment shall **only** be made by a Qualified Physician" ties the hands of the Industrial Commission.

**Chairman Andreason** then recognized **Lyn Darrington**, representing the Employers Compensation Insurance Company, **Angie Richards**, an attorney with PCI (Property Casualty Insurers Association of America) and **Phil Barber**, an attorney with the Idaho Council of American Attorneys Association who all wanted to register support for this legislation.

**Chairman Andreason** then called **Brad Eidam**, representing the Idaho Trial Lawyers Association to the podium. He said their opposition is not with an impairment rating being given by a qualified medical person. The concern is if a physician did not give a rating, or do the impairment evaluation it would impede the process for the Industrial Commission. He referred to a handout report of the subcommittee of the Advisory Committee to the Industrial Commission. (See Subcommittee Report and Worker's Compensation and Related Laws - Re: 72-428 Attached) Mr. Eidam responded to many questions from the committee. Because of time it was suggested by **Senator Werk** to continue discussion on this legislation until another meeting. **Senator Goedde** said in the meantime the committee needed clarification from the Attorney General on "medical assessment" and he would work on that.

**MOTION:** **Senator Stegner** made the motion, and **Senator Coiner** seconded it to hold **S1093** in committee until our next meeting. The motion carried with a **Voice Vote**.

**MOTION:** **Senator Stegner** made the motion, and **Senator Compton** seconded it to send **RS14865** and **RS14840** to print. The motion carried with a **Voice Vote**.

**ADJOURNMENT** **Chairman Andreason** adjourned the meeting at 3:13 PM

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

MINUTES

**SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE**

**DATE:** February 15, 2005

**TIME:** 1:15 p.m.

**PLACE:** JFAC

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

**CONVENED:** **Chairman Andreason** called the meeting to order at 1:20 PM

**GUBERNATORIAL APPOINTMENT** **Chairman Andreason** introduced and welcomed **Mr. R. John Taylor** to the committee to speak on his Gubernatorial Appointment to the Idaho Endowment Fund Investment Board. This is a re-appointment as Mr. Taylor has served on the Board the last six years.

**MOTION:** **Senator Stegner**, as did other committee members thanked Mr. Taylor for his service to the Endowment Board and the State of Idaho. **Senator Stegner** made the motion, and **Senator Malepeai** seconded it to recommend this appointment to the Senate. The motion carried with a **Voice Vote**. **Senator Stegner** will sponsor the appointment on the Floor.

**RS14943** **Senator Andreason** then introduced **RS14943** a concurrent resolution to reject certain standards for commercial driving schools incorporated by reference into the rules governing uniformity of the State Board of Education.

**MOTION:** **Senator Stegner** made the motion for unanimous consent to send RS14943 to a privileged committee to print and to recommend that the Bill then be referred to the Education Committee. **Senator Cameron** seconded the motion. Consent was unanimous.

**ADJOURNMENT** **Chairman Andreason** adjourned the meeting to proceed with the Joint CEC Committee meeting at 1:30 PM.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

MINUTES

**SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE**

**DATE:** February 17, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Stegner  
Senator Cameron

**CONVENED:** The Commerce and Human Resources Committee met in room 437 and proceeded across the street to the Department of Finance.

**GUBERNATORIAL APPOINTMENT** **Chairman Andreason** asked **Gavin Gee** to speak to the committee regarding his re-appointment to the Endowment Fund Investment Board to serve a term commencing April 11, 2004 and expiring April 11, 2008. Mr. Gee gave a short history of the Endowment Fund and then gave information on his background with a biography handout. (See Attached)

**MOTION:** **Senator Compton** made the motion, and **Senator Broadsword** seconded it to recommend this appointment to the Senate. The motion carried with a **Voice Vote**. **Senator Werk** will sponsor the appointment on the Floor.

**Gavin Gee**, who is the Director of the Idaho Department of Finance then gave the committee an overview of everything that the Department of Finance does for the State of Idaho. (See Attached) The committee toured the offices within the department and then proceeded across the hall for a presentation from **Mr. Karl Tueller** of the Idaho Commerce & Labor on Science and Technology "Year in Review" (See Attached)

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** February 22, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Malepeai

**CONVENED:** **Chairman Andreason** called the meeting to order at 1:35 P.M..

**Chairman Andreason** called on **Dwight Johnson** of the Department of Commerce and Labor to introduce Foreign Trade Office Representative **Mr. Eddie Yen**, Director of the Idaho-Asia Trade Office. Mr. Yen explained the mission of the trade office is to promote Idaho commerce and agriculture business opportunities in Taiwan and Mainland China. He gave examples of some of the programs that had been developed: China & BSU with a Highschool Teacher Training program in Shanghai, a cancer treatment research program with ISU to develop a treatment for cancer with a mushroom-based medicine, environmental solutions in Japan, wood and building materials, landscaping and distribution with Boise Cascade and China, Taiwan & BSU intern programs for educating CEO's in business, Idaho agriculture exports of apples, cherries, white peaches and wine. Mr. Yen said he felt that trade shows were the very best way to meet potential customers and develop relationships. (Please see Idaho Foreign Trade Offices booklet attached for more detail.) Mr. Yen was complimented by many of the committee members on the accomplishments. **Senator Stegner** and **Senator Cameron** had met Mr. Yen on previous trips to Asia and both senators thanked Mr. Yen and sang his praises to the committee.

**Mr. Armando Orellana**, Manager of the Idaho-Mexico Trade Office then spoke to the committee regarding the mission of their office to promote Idaho agriculture and commerce business opportunities in Mexico and Central America. Mr. Orellana explained that a great deal of the potato farmers and growers in Mexico are using farm equipment from Idaho. He listed many missions, and projects the office had been promoting such as; work with the Farm Bureau for Idaho wheat, efforts with the Idaho Bean Commission to establish test trials, and provide information regarding Idaho bean seeds for Mexican bean growers, Sabritas, Frito Lay's subsidiary in Mexico met with Idaho potato growers regarding potato machinery manufacturing, fresh and processed potatoes and other potato products. Other projects include promotions in tourism, environmental services, intern programs through universities for a better understanding of business, product promotion, and marketing. (Please see Idaho Foreign Trade Offices booklet attached for more detail.)

- MINUTES:** **Chairman Andreason** said the committee had Minutes to approve.
- MOTION:** **Senator Werk** made the motion, and **Senator Coiner** seconded it to approve the Minutes for the meeting of February 17<sup>th</sup>, 2005. The motion carried with a **Voice Vote**.
- MOTION:** **Senator Compton** made the motion, and **Senator Werk** seconded it to approve the Minutes for the meeting of February 15<sup>th</sup>, 2005. The motion carried with a **Voice Vote**.
- MOTION:** **Senator Broadsword** made the motion, and **Senator Compton** seconded it to approve the Minutes for the meeting of February 10<sup>th</sup>, 2005. The motion carried with a **Voice Vote**.

**Chairman Andreason** then introduced **Chuck Winder** and **Dave Ekern** to speak to the committee on **GARVEE Bonding, Connecting Idaho**. Mr. Winder using a power point presentation explained the vision of transportation is for economic development, investing in our communities, and investing in the safety of commerce and families as they move around. It is good for jobs and will help our competitive position throughout the region, nationally, and internationally. However, the most important reason is to reduce crashes, fatalities, and serious injuries that occur, and fixing these roads would significantly improve safety. GARVEE INVESTMENTS would comprise 13 projects, a total of 258 miles with a \$1.6 billion dollar investment. Mr. Winder explained each project, talked of currently programmed projects, and gave details regarding the investment benefits for the state, which are all outlined in Connecting Idaho (Pgs. 1-5 Please See Attached) Mr. Winder also explained to the committee the process and steps that would have to be taken for these projects. He said they are not asking for \$1.6 billion dollars, they are simply asking for approval to bond.

**Mr. Dave Ekern** continued with the presentation saying the vision has been explained but the tool is new. Mr. Ekern proceeded to answer the questions of how GARVEE Bonding works and the assurance that it is controlled at all times. He explained Foundations for Use, Assumptions, and Investment Impact Analysis. (All detailed on pgs. 6-14 in Connection Idaho Attached)

**ADJOURNMENT** Because of time restraints **Chairman Andreason** had to interrupt Mr. Ekern's presentation and the meeting was adjourned at 3:03 P.M.

/S/ John C. Andreason  
 Senator John Andreason  
 Chairman

/S/ Janet Cook  
 Janet Cook  
 Secretary



## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** February 24, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**MEMBERS ABSENT/ EXCUSED:** Senator Broadsword, Senator Goedde, Senator Malepeai

**CONVENED:** **Chairman Andreason** called the meeting to order at 1:42 P.M.

**S1109** **Chairman Andreason** called upon **Senator Shawn Keough** to speak to the committee on S1109 a bill relating to Worker's Compensation to provide that a volunteer of a Sheriff's Office or Department shall be deemed an employee for purposes of worker's compensation coverage. **Senator Keough** gave a short synopsis of the bill and introduced **Mike Nielsen**, Team Leader of the Priest Lake Search and Rescue to explain the reasoning behind this legislation. (See Attached Letter to Senator Keough) Many of the committee members had questions regarding this legislation. Some of their questions could not be answered, and **Senator Keough** agreed to bring this legislation back to the committee with answers to their questions.

**MOTION:** **Senator Stegner** made the motion and **Senator Compton** seconded it to hold **S1109** in committee for a period of time for Senator Keough to obtain some answers to questions regarding this bill that were asked of the committee. The motion carried with a **Voice Vote** to hold **S1109** in committee and revisit at a later date.

**Chairman Andreason** explained to the committee that **Senator Goedde** and **Senator Malepeai** were in another meeting and we would hear **S1093** sponsored by **Senator Goedde** when they arrived for the meeting.

**S1108** The Chairman asked **Senator Corder** to speak to the committee on S1108 the bill relating to PERSI to provide that retirees who retire without early retirement reductions and are re-employed after six months with an employer other than the same employer may elect to continue receiving retirement benefits and not accrue additional service. **Senator Corder** told the story of a retired deputy, who has moved and is considering running for the office of Sheriff in another county. If he wins the election, he would be paid \$10,000 a year less than he receives through PERSI for his retirement. This bill amends Idaho Code to permit retirees under the PERSI system to return to full-time work with a PERSI employer without a reduction in their benefit provided certain conditions are met. The retiree must have retired with an unreduced retirement benefit; can only return to an employer other than the employer from whom they retired; they must have at least a six-month break

from their date of retirement to date of any re-employment with a PERSI employer and the employer is required to pay PERSI contributions as may be directed by the retirement board. The fiscal impact, under the assumption that 4% of the future retirees will take advantage of this rehire provision, estimates an additional cost to the total fund of 0.03% of pay and an additional \$17.2 million to the unfunded liability. The total costs are dependent upon the number and characteristics of retirees who are rehired under this provision. The legislation provides that the Retirement Board will establish an employer contribution rate to provide for appropriate funding of the impact of this benefit by those employers involved. **Senator Cameron** stated this would be double dipping. **Senator Corder** said that was happening now and didn't know if retirees coming into Idaho from other states were on a defined benefit plan or a defined contribution plan. Members of the committee asked **Alan Winkle** of PERSI to shed some light on how passage of this legislation would affect PERSI and the impact it might have. Mr. Winkle said PERSI had a defined plan for retirees, temporary employees, substitute teachers, or any other person working for an employer under PERSI. It states that if you work for more than 20 hours a week for more than 5 consecutive months you are in the system. If not you are outside of the system. For a retiree, in this instance, their benefit is suspended for the period of time they are working, they will accrue and pay for an incremental benefit, based on the time they work, and when they terminate they get the increment, plus their suspended benefit is restarted with colas, the two are added together and they move on. Mr. Winkle answered several questions of the committee regarding benefits of elected officials, double dipping and the IRS, and the effects of the impact to the fund. **Karl Malott** representing the Professional Fire Fighters of Idaho oppose this legislation and stated reasoning for his opposition.

**MOTION:** **Senator Cameron** made the motion and **Senator Compton** seconded it to send **S1108** to the Floor with a Do Pass recommendation. **Senator Stegner** and **Senator Werk** expressed concerns with trying to change PERSI provisions and said they would vote No. The Chairman called for a Roll Call Vote. The motion to send S1108 to the Floor with a Do Pass recommendation failed with a 4 Nay - 2 Aye vote.

**ADJOURNMENT** **Chairman Andreason** adjourned the meeting at 3:04 P.M.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** March 1, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:32 P.M.
- HCR13** **Representative Gary Collins** explained that HCR13 was a concurrent resolution rejecting Pending Rules of the Department of Insurance relating to rebates and illegal inducements to obtaining title insurance business.
- MOTION:** **Senator Goedde** made the motion and **Senator Compton** seconded it to send HCR13 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Coiner** will sponsor HCR13 on the Floor.
- HCR14** **Representative Collins** explained this concurrent resolution would reject certain pending rules of the Division of Building Safety governing installation of heating, ventilation, and air conditioning systems.
- MOTION:** **Senator Cameron** made the motion and **Senator Coiner** seconded it to send HCR14 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Coiner** will sponsor HCR14 on the Floor.
- S1093** **Senator Goedde** asked that S1093 be returned to the sponsor. He explained that in certain instances this bill would usurp some of the discretion of the Industrial Commission in instances when a case comes before the Commission without an impairment rating. In those instances the Commission has established a rating without a medical doctor providing a rating. Only in those instances would S1093 usurp the authority of the Commission. He suggested this could certainly cause problems in the future without a medical doctor's report and suggested the Industrial Commission needed to pay due diligence to this issue.
- MOTION:** **Chairman Andreason** asked for and received unanimous consent to pull S1093 and return it to the sponsor.
- H122** Chairman Andreason welcomed Suzanne Schaefer representing Rocky Mountain Propane Association to speak to the committee on H122, legislation to close the gap in regulating the distribution and handling of liquefied propane gas. This legislation amends Title 54, governing professions, vocations, and businesses, to add chapter 51, to the Idaho Liquefied Petroleum Gas Public Safety Act. It is limited in scope intended only to govern areas of propane handling that are not otherwise already regulated by the state. The focus is to fill the gap between already regulated highway propane regulations by the transportation, both state and federal and within buildings when regulated under heating, air conditioning, and

ventilation codes. The legislation creates a five-member board made up of individuals with expertise and experience in the propane industry, in rural and city fire departments, and a public member. **Senator Werk** asked several questions regarding the limited liability of licensee and a concern that if in fact the company places or installs equipment or appliances with propane a contractual agreement would be part of that arrangement. The contract would state conditions of guarantee for that installment and maintenance. **Kevin Keller**, in the industry gave an example of landlord and tenant, when a tenant might hook something onto the contracted equipment. **Gary Van Hees**, of Heritage Propane said it was working in other states and if it helped add notification then it is perceived as a benefit. Other committee members questioned the indemnification of this clause and it's necessity.

**MOTION:** **Senator Cameron** made the motion and **Senator Goedde** seconded it to send H122 to the Floor with a Do Pass recommendation. **Senator Werk** made a substitute motion to send H122 to the 14<sup>th</sup> Order for Amendment in regard to the limited liability clause, **Senator Malepeai** seconded the motion. The Roll Call Vote for the substitute motion resulted in 6 Aye 2 Nay to send H122 to the Amending Order. **Senator Werk** will be the sponsor.

**Chairman Andreason** welcomed **Jack Lyman** representing the Idaho Manufactured Housing Association to speak to the committee on H121.

**H121** Mr. Lyman explained this legislation would exempt a modular building, manufactured in Idaho and exported from the state, from heating, ventilation and air conditioning codes and requirements. This bill authorizes the Division of Building Safety to conduct heating, ventilation and air conditioning inspections upon request from other jurisdictions. It also authorizes the Division to conduct HVAC inspections upon request from manufacturers and issue inspection tags. Mr. Lyman said the committee had passed this exact legislation regarding plumbing and electrical inspections on modular buildings last year and this is the same legislation as it applies to heating, ventilation and air conditioning.

**MOTION:** **Senator Cameron** made the motion and **Senator Goedde** seconded it to send H121 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Cameron** will sponsor H121 on the Floor.

**Chairman Andreason** introduced **Rayola Jacobsen** of the Occupational License, Bureau to speak on H62.

**H62** Ms Jacobsen explained that H62 is a bill to apply endorsement provisions to funeral directors. Basically, it is a bill to help some of the smaller communities for licensing funeral directors. If a person holding a current, valid license in another state or territory, and has maintained that license in good standing for 5 years, they may apply for a license to practice in the state of Idaho without meeting the full requirements of a new applicant.

**MOTION:** **Senator Goedde** made the motion and **Senator Broadsword** seconded it to send H62 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor H62 on the Floor.

**MINUTES:** **Senator Coiner** made a motion and **Senator Werk** seconded it to approve the committee Minutes for February 22, 2005. The motion carried with a

**Voice Vote.**

**ADJOURNMENT** Chairman Andreason adjourned the meeting at 2:50 P.M.

/s/ John C. Andreason

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Senator John Andreason  
Chairman

/s/ Janet Cook

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Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** March 3, 2005  
**TIME:** 1:30 p.m.  
**PLACE:** Room 437  
**MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai  
**CONVENED:** **Chairman Andreason** called the meeting to order at 1:35 P.M., and explained that the Agenda had been changed for the committee members to accommodate for better order.

**Chairman Andreason** welcomed **Shad Priest** of the Department of Insurance to introduce H111 - H120 to the committee. Before testimony on H111, Mr. Priest introduced members of the Department of Insurance who had accompanied him to the meeting:

**Director - Gary Smith, Tom Donovan - Deputy Attorney General, Jim McBride - Supervisor of Consumer Affairs, Jim Genetti - Bureau Chief, and Don Roberson - Investigator.**

**H111**                    **Amendments to 41-5510 – HRP Eligibility**

This proposal amends the code section that sets forth who is eligible to purchase individual health insurance policies that are reinsured by the Idaho High Risk Reinsurance Pool. High Risk Pool Policies are intended to provide access to individual health insurance for persons who insurance carriers do not want to offer insurance to, or are only willing to offer it at a very high rate. These are generally persons who have health conditions that make it likely they will incur significant medical costs in a given year.

House Bill 111 does two things:

First, it clarifies that a person who is defined as a “federally eligible individual” under the federal law known as HIPAA, is eligible for a High Risk Pool policy even though the person may have other coverage options available. This is required in order for Idaho’s High Risk Pool program to meet federal requirements for guaranteed access to health insurance.

The second change made by this bill was requested by the Board that oversees the High Risk Pool program. Currently, a person who is eligible for group coverage is not eligible for a High Risk Pool plan. The changes made by this bill will allow persons who are no longer employed, but are eligible for continuation of employee coverage under federal COBRA law, to purchase a High Risk Pool plan if they would otherwise be eligible for a pool plan. COBRA is the federal law that allows a former employee to continue coverage under an employer plan for a period of time after leaving employment.

The reason the Board wants to make this change is that COBRA requires that the former employee pay for the full cost of the employer plan, including the employer's share. If the plan provides lots of benefits, the cost of continuing coverage under COBRA may be more than the former employee can afford, and an individual plan with fewer benefits may be the only option for coverage realistically available to the employee. However, currently, if the person has health problems that result in insurers declining to offer an individual plan, the person will not be eligible for a High Risk Pool plan as long as the person is eligible for continuation of coverage under COBRA, even if COBRA coverage is not an economically viable alternative.

House Bill 111 would address this situation by removing COBRA eligibility as a bar to obtaining coverage under a High Risk Pool plan.

**Senator Stegner** asked if there would be a Fiscal Impact to the High Risk Pool with this bill? **Senator Cameron** answered the question by stating he is in the Insurance business, is on the Board that oversees the High Risk Pool Program, and that the Board did not think this would have much impact on the general fund as the High Risk Pool has substantial funds in their account. **Senator Cameron** also asked for unanimous consent of the committee to acknowledge for the record that he disclosed he could potentially benefit from this bill if he were to sell a policy to a person eligible for the High Risk Pool. Unanimous consent was granted.

**MOTION:**

**Senator Werk** made the motion and **Senator Cameron** seconded it to send **H111** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Werk** will sponsor the bill on the Floor.

**H112**

**Reciprocal Insurer Law Repeal (ICRMP)**

House Bill 112 would repeal two subsections of code sections that govern what are known as "reciprocal insurers." A reciprocal insurer is a very unique type of entity that consists of a group of businesses entering into agreements to provide insurance among themselves. Basically, it's a type of self insurance created by an agreement among parties to share losses.

Reciprocal insurers are required to meet nearly all the same financial requirements as regular insurance companies. This is because reciprocals are, in essence, offering insurance to their members. However, back in the late 70's, there was some special language added to this chapter of the code that allowed a domestic reciprocal insurer that exclusively insures governmental entities to operate based on having a loss paying fund and reinsurance rather than meeting the financial requirements applicable to other types of insurers.

In 1986, legislation was enacted that applied standard statutory financial requirements to all reciprocals, including those insuring only governmental entities. However, the old code sections regarding reinsurance and the loss paying fund were not deleted when this change was made. As a result, there has been some confusion over whether the old provisions still applied in some way to reciprocals that insure only governmental entities.

House Bill 112 will eliminate this confusion by repealing the outdated subsections.

Only one entity is affected by this change, and it is my understanding that it supports this proposal.

**MOTION:** **Senator Goedde** made the motion and **Senator Broadsword** seconded it to send **H112** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill on the Floor.

**H113** **Producer Trust Accounts**

Insurance agents and brokers (now referred to in the code as “producers”) routinely receive and hold onto funds that represent payments intended for others. For example, if a person pays insurance premiums through an agent, the agent is responsible for forwarding the funds to the company. The opposite situation may occur if an agent receives funds from an insurance company that are intended to go to an insured.

Although current law makes these third party funds “trust funds,” it does not explain how the trust funds should be handled. As a result, an agent is free to commingle these third party funds with the agent’s own business or even personal funds. This makes investigation of cases where misuse of third party funds is alleged extremely difficult. An agent can argue that he has not misused the funds as long as he can point to any account with a balance sufficient to meet the obligation. Commingling of third party funds in an agent’s business or personal account also leaves these funds vulnerable to attachment or levy by an agent’s creditors if the agent runs into financial problems.

House Bill 113 amends Idaho Code § 41-1024 to require that the agent deposit into a trust account all funds collected by an agent that are being held on behalf of an insurer or client.

This change will afford greater protection to insureds, insurers and agents by creating a clear record of funds that the agent is simply holding temporarily on behalf of others. In cases where misuse is alleged, the agent will simply have to show that the trust account is in balance, and the issue can be easily laid to rest. It will also help to protect the third party funds from levy or attachment by creditors of the agent if the agent runs into financial problems.

**MOTION:** **Senator Compton** made the motion and **Senator Coiner** seconded it to send **H113** to the Floor with a Do Pass recommendation. **Senator Stegner** stated he would vote against this bill and would like to see more cooperation within the industry. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.

**H114** **Producer Loan Agreements**

House Bill 114 would require that an insurance producer (that is, an



insurance agent or broker) who borrows money from a client must document the loan arrangement in writing.

We think this is simply a common sense requirement that most agents and brokers who borrow from clients already follow. However, the Department has had cases where funds owed to a client were not paid when due. When the agent is contacted, the explanation is that the client and the agent had a verbal loan arrangement. The investigation then comes down to one person's word against another.

Requiring that loan arrangements be in writing should avoid this problem. Exceptions to the writing requirement are made for family members and persons engaged in the business of lending, like banks and credit unions.

The writing requirement only applies to situations where the agent is borrowing from a client; it does not apply if the agent is making a loan to the client.

**Senator Compton** asked several questions regarding penalties and the fact that this bill did not reference penalties within the code. **Allyn Dingel** said the Idaho Insurance Code has a catch all for violations of any provision, title 41 stating the following penalties will apply. The reason it is not referenced is that there are only one or two sections in the Idaho Insurance Code that impose a penalty and they fall under title 41.

**MOTION:**

**Senator Goedde** made the motion and **Senator Broadsword** seconded it to send **H114** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill on the Floor.

**H115**

**Fraud Law Changes**

House Bill 115 makes several changes to insurance code provisions relating to reporting and investigation of insurance fraud.

The first change consists of clarifying the definition of "authorized agencies" for insurance fraud reporting purposes. The definition is being amended to include any law enforcement agency of this state. As currently written, the law could be read to limit this to the state police.

In addition, changes are made to clarify that any prosecutor in the jurisdiction where the fraud occurred is an authorized agency for fraud reporting purposes. Insurance fraud cases have been handled by city, county, state and federal prosecutors, so the Department wants to make certain that the definition is expansive enough to cover all these types of prosecutors.

The other main change included in this bill is found on the last page. The bill deletes language that created a "fraud investigation and prevention account." This section was enacted in 1994, but the investigation account was never funded by the legislature. What may possibly have originally been intended was that restitution payments received by the Department as a result of fraud prosecutions were to be paid into the investigation account. However, the law as actually enacted never included a provision expressly stating that

restitution should go into the account. The result is that the account has remained unfunded since it was created.

In any event, the Department does not see a need for the investigation account since the fraud investigation section is funded as a part of the Department's regular annual appropriation process in the same manner as other sections of the Department.

In conjunction with this change, we are adding wording that clarifies how any restitution payments received by the Dept will be handled. These are payments that a judge may order a person convicted of fraud to pay to the Department to cover the costs of investigating the case. This bill simply clarifies that restitution payments will be deposited into the same account that the Dept's fee revenue goes into. This is how restitution payments are currently handled, and, since this is the account that originally funded the investigation, it is where a judge ordering restitution would reasonably expect a restitution payment to go.

**MOTION:**

**Senator Compton** made the motion and **Senator Cameron** seconded it to send **H115** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.

**H116**

**Countersignature Law Changes**

House Bill 116 eliminates a filing requirement that, in the Department's view, is no longer necessary and could interfere with the Dept's goal of allowing Insurers' to electronically file annual statements with the Department.

Many states, including Idaho, have had what are known as countersignature laws. These laws required that any policy sold covering risks located in a state had to be countersigned by a resident agent of that state, even though the nonresident agent that sold the policy was licensed in the state. Nearly all states have eliminated their countersignature requirements, and in some cases countersignature requirements have been declared by courts to be unconstitutional.

Idaho still has a countersignature law on the books, but it only applies if the law of the state of the nonresident agent who placed the coverage has a countersignature requirement. Since nearly all states have eliminated the requirement, there are very few instances when a countersignature is required under Idaho's law.

House Bill 116 eliminates a requirement that insurers file an attachment to their annual statements that consists of an affidavit of the company's CEO stating that the company is in compliance with Idaho's countersignature requirements. Not only does there no longer seem to be any need for this affidavit, the requirement interferes with companies' ability to file their annual statements in a nationally standardized electronic format. Therefore, we are proposing the repeal of this section.

**MOTION:**

**Senator Coiner** made the motion and **Senator Broadsword** seconded it to send **H116** to the Floor with a Do Pass recommendation. The motion carried

with a **Voice Vote**. **Senator Coiner** will sponsor the bill on the Floor.

**H117**

### **Senior Annuity Sales – Suitability Requirements**

House Bill 117 would require that person s selling annuities to senior citizens have some reasonable basis for believing that the annuity is a suitable product for the senior citizen.

Anyone who has ever purchased an annuity, or even listened to an annuity sales pitch, knows that annuities are very complicated financial products. Often these products require that the purchaser pay a sizeable lump sum amount up front, and then promise to make periodic payments to the purchaser beginning at some point, usually a number of years, in the future.

Unfortunately, the Department has encountered a number of situations where senior citizens have been talked into buying annuities that were clearly inappropriate for the person’s age and financial status. In fact, in these cases the only possible justification for selling the product to the senior that the Department was able to discern, was the amount of commission the seller earned.

When a senior is convinced to buy an annuity that is inappropriate, it can result in funds being tied up in an investment that will not begin paying out for a number of years. If the senior needs these funds for immediate living expenses, the only option is to surrender the annuity, which usually results in a significant financial loss to the senior due to surrender charges.

Most persons selling these products already do a suitability analysis that includes at least the items set forth in this proposal. This law should not require any significant changes to the way these persons are already doing business. However, this law will allow the Department to address those situations where a person more interested in commissions than the client’s welfare talks a senior citizen into buying a clearly unsuitable annuity that results in financial harm to the senior.

**MOTION:**

**Senator Cameron** made the motion and **Senator Goedde** seconded it to send **H117** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Cameron** will sponsor the bill on the Floor.

**H118**

### **Administrative Hearing Provisions Clean-up**

The Idaho Administrative Procedures Act and the related procedural rules set forth detailed standards governing the conduct of administrative hearings held by state agencies in Idaho.

Over the years, though, the Idaho insurance code (Title 41) has had a number of provisions added that include language regarding hearings before the Department of Insurance director. Since most of these provisions pre-date the Administrative Procedures Act, the deadlines and procedures identified in these code sections are often not consistent with the Administrative Procedures Act requirements. This has sometimes resulted in confusion over which procedural rules apply for the parties involved in administrative hearings involving the Department of Insurance.

The purpose House Bill 118 is simply to delete or change references to administrative hearings in Title 41 that are not consistent with the Administrative Procedures Act, and to clarify that administrative hearings conducted by the Department of Insurance will be conducted pursuant to the laws and rules set forth in the Idaho Administrative Procedures Act.

The changes made by this bill will remove inconsistencies between the Insurance code and the Administrative Procedure Act relating to hearings.

There are also some deletions of unnecessary language, and some time requirements have been changed to be more consistent with what is required under the Idaho Administrative Procedures Act.

**MOTION:**

**Senator Malepeai** made the motion and **Senator Cameron** seconded it to send **H118** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Malepeai** will sponsor the bill on the Floor.

**H119**

**Enforcement Powers Clean-up**

The goal of House Bill 119 is to set out all the director's enforcement powers in a single code section. This bill also eliminates some wording relating to enforcement powers that was inconsistent with the Idaho Administrative Procedures Act.

This proposal is not intended to create or add any new enforcement powers; it simply sets out in a single place the tools that are available to the Director to enforce state insurance laws.

One of the primary changes made by this bill is the repeal of a code section that deals with cease and desist orders issued under the trade practices and frauds chapter of the insurance code at Section 3 of the bill. The existing code section contains procedural requirements that are not consistent with the Idaho Administrative Procedures Act. This bill will eliminate that section and simply include the Director's cease and desist authority under the general powers of the Director section.

This bill also changes slightly a time period for notice to make it a multiple of seven, which is consistent with how time periods are calculated under the Administrative Procedures Act rules.

One area of this bill that sparked some questions when it was presented to the House is the wording at lines 17 through 19 of the first page of the bill: "If the director believes any person has engaged in or is about to engage in ... a violation..." Someone raised the question of when the Director would ever take action because he believed someone was about to engage in a violation.

In responding to that question, the first point to note is that the new language does not create any new power in the Director since under the existing law the Director is authorized to institute any lawsuit or proceeding "he may deem necessary" for the enforcement of any provision of the insurance code. The new language was inserted simply because it is consistent with the existing language in subsection (2) at lines 31 through 34, which allows the

Director to bring an action in district court if he believes that any person is violating or about to violate the code. And it is also consistent with the enforcement language of the Uniform Securities Act under Title 30 of the Idaho Code. This wording does not create any new authority or power in the Director.

An example of when the “about to” language might come into play would be a situation where the Dept is contacted by an insurance agent who is being asked to represent an unlicensed health insurance plan. Operators of these types of plans often try to recruit agents to sell them by telling the agents that the plans are exempt from state regulation under federal law (which is almost never the case). If the Dept becomes aware that this type of plan is attempting to come into Idaho, it is generally better for all concerned to resolve the issue up front before the plan is actually being marketed and sold to consumers. The basis for such an action would be that the operators of the plan are about to undertake actions that will violate Idaho law. Of course, the Department cannot take any action until the plan operators have had notice and an opportunity for hearing on the issue.

**MOTION:**

**Senator Cameron** made the motion and **Senator Compton** seconded it to send **H119** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Broadsword** will sponsor the bill on the Floor.

**H120**

**Interstate Compact for Insurance Product Regulation**

House Bill 120 proposes to adopt an interstate compact that will create a commission to uniformly regulate certain types of insurance products.

Currently, insurers wishing to offer a new insurance product must file the proposed product in each state where the insurer wants to sell it. This means that to offer the product nationwide, the insurer must make 51 separate filings. In many states, the product cannot be sold until it has been approved by the insurance department, a process that in some states can take months.

The commission created under this interstate compact would be responsible for establishing uniform standards for group annuity, life insurance, disability income and long term care insurance products. The commission will also review proposed products to make certain they meet the uniform standards. Insurers that obtain approval for one of these products from the commission will be able to immediately sell the product in any state participating in the compact.

The reason for selecting certain types of products for interstate treatment, is because insurers compete with banks and securities firms that offer financial products similar to these types of insurance products. The banks and securities firms are regulated nationally and are not required to make filings with each state where the product is being offered. As a result, banks and securities firms have generally been able to bring new products to the national market much faster than insurers that offer competing products. Historically, this has left insurers at a competitive disadvantage.

As last count, Colorado, Utah, Alabama, Connecticut, Illinois, Indiana, Iowa,

Kentucky, New Jersey, New York, Pennsylvania and Vermont have enacted legislation adopting the interstate compact. Arkansas, Indiana, Florida, Georgia, Kansas, Michigan, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Texas and Washington are either in the process of adopting or planning to adopt it this year.

The compact represents a new experiment in attempts to streamline and modernize state regulation of insurance, and is strongly supported by industry and the National Association of Insurance Commissioners. It is also intended as a response to critics of state insurance regulation who are pushing to take insurance regulation away from the states and hand it over to the federal government.

**Senator Cameron** stated some reservations with this bill regarding regulations helping the carriers and leaving the consumers and agents with problems.

**Senator Werk** asked for unanimous consent for the committee to hold this bill until our next meeting so that he might spend some time becoming more informed on this bill and Idaho's involvement in the Compact. Consent was granted.

**ADJOURNMENT** **Chairman Andreason** adjourned the meeting at 2:52 P.M.

/s/ John C. Andreason

Senator John Andreason  
Chairman

/s/ Janet Cook

Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** March 8, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:33 P.M.
- MINUTES:** **Senator Goedde** made the motion and **Senator Cameron** seconded it to approve the Minutes of March 1, 2005. The motion carried with a **Voice Vote** to accept the Minutes as written.
- MINUTES:** **Senator Malepeai** made the motion and **Senator Coiner** seconded it to approve the Minutes of March 3, 2005. The motion carried with a **Voice Vote** to accept the Minutes as written.
- RS15116** **Chairman Andreason** asked for unanimous consent to send RS15116 to the Judiciary and Rules Committee to print and then return to Commerce and Human Resources for further action. **Senator Cameron** explained the purpose of this bill is to add a new benefit plan to the four existing benefit plans offered through the High Risk Pool. Those plans are referred to as 1. Basic, 2. Standard, 3. Catastrophic A, and 4. Catastrophic B. This bill adds a fifth plan as an HSA compatible benefit plan. HSA's or Health Savings Accounts by federal law require certain benefits for an individual to qualify for the tax deductibility. The High Risk Pool Board felt that individuals should not be prohibited from participating in an HSA just because they only qualify for High Risk Pool Products. Unanimous consent was granted to send RS15116 to the consenting committee to print.
- Chairman Andreason** welcomed **Shad Priest** of the Department of Insurance to recap H120 for continued discussion of the committee.
- H120** **Interstate Compact for Regulation of Certain Types of Insurance Products - Recap**
- This bill would allow Idaho to participate in an interstate compact that would create a multi-state commission that would establish uniform standards for four types of insurance products:
- Life Insurance;  
Annuities;  
Disability Income; and  
Long Term Care
- The commission would also be responsible for reviewing and approving product filings. Once an insurance product is approved through the

Commission, it can be offered in any of the compacting states without the need for further review or approval. Individual states, however, will retain authority over market regulation, financial solvency, claims settlement, and consumer inquiries and protections.

The goal is to streamline the regulatory process and allow insurers to bring products to the national market more quickly. These are products that compete with products offered by banks and securities firm that do not have to go through the state by state approval process that insurers must deal with.

The day-to-day operations of the body would be overseen by a 14 member management committee with a set mix of representatives from the largest states, the mid-sized states and the smaller states, so that all states would have a voice in management. In addition, there will be three advisory committees to review and advise on operations. One will be made up of representatives selected by the respective legislatures of participating states, one will be made up of industry representatives and the third will be made up of consumer representatives.

Supporters of this Compact include: the National Association of Insurance Commissioners (NAIC), the National Conference of State Insurance Legislators (NCOIL), the American Council of Life Insurers, the National Association of Insurance and Financial Advisors, and the National Conference of State Legislatures. Here is what the National Conference of State Legislatures (the NCSL) had to say about the Compact:

“The NCSL Executive Committee ... unanimously endorsed the compact. This is only the third time in its 28-year history that NCSL has endorsed model legislation. NCSL and insurance commissioners believe that the compact is the best way to preserve state insurance regulation while raising insurance consumer protections, improving the quality of product review, and providing insurance companies the regulatory efficiency that they need to compete in the modern financial services marketplace.”

NCSL Webpage, *LegisBrief*, Jan. 2004, Vol. 12, No. 3

**MOTION:**

**Senator Compton** made the motion and **Senator Werk** seconded it to send H120 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.

**Chairman Andreason** welcomed **Ken McClure** to the podium to introduce H89.

**H89**

This bill corrects an oversight in House Bill 290 that was passed during the 2004 session, providing for prompt payment of health insurance claims. To address objections to the prior bill, house bill 290 made a distinction between claims submitted on paper and those submitted electronically, allowing 45 days for payment of paper claims and 30 days for claims submitted electronically. Unfortunately, the provision in requiring an insurer who needs additional information in order to process a claim to seek it within 30 days. The original bill should have allowed 45 days for an insurer to request additional information when presented with a paper claim. This bill simply



corrects that oversight so that the time frames in the code section are consistent.

**MOTION:**

**Senator Malepeai** made the motion and **Senator Cameron** seconded it to send H89 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Malepeai** will sponsor the bill on the Floor.

**Chairman Andreason** welcomed **Mike Brassey** to the podium to speak on H90.

**H90**

**CREDIT LIFE INSURANCE**

**THE COVERAGE IN GENERAL** Credit life insurance is designed to pay a loan or credit sale if the debtor dies. The group coverage has a number of characteristics: The proposal is to authorize coverage for borrowers who borrow less than \$150,000 (page 2, lines 1 and 2). The existing \$75,000 limit was enacted in 1983 and increased loan size has made the existing limitation impractical. The other amendments in the bill were made by Legislative Services to conform the statute to the current drafting style.

Access. There is no “underwriting”, so people who are otherwise uninsurable can obtain coverage with limited exclusions or no exclusions. Limiting access to credit insurance is likely to leave these folks with no insurance at all.

Availability. Many debtors are not the type of customer sought by insurance agents as a buyer of other types of coverage like term insurance.

Cost. The total cost for coverage is modest in most consumer credit transactions. (Rates are regulated by the Department of Insurance.)

Convenience. The coverage is convenient to buy and the premiums are convenient to pay because the payment is included in the loan (or sale) payment.

Both the Idaho Insurance Code (section 41-1310) and the Idaho Credit Code (section 28-44-109) prohibit lenders from requiring that borrowers purchase insurance from the lender. The Department of Finance examines lenders on a regular basis. The Department’s examiners review lender portfolios during their examinations to assure that the lender is not forcing borrowers to purchase credit insurance.

**MOTION:**

**Senator Coiner** made the motion and **Senator Compton** seconded it to send H90 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Coiner** will sponsor the bill on the Floor.

**H136**

**Senator Goedde** introduced H136 relating to Fire insurance. This legislation amends Idaho Code to provide proof of mailing of notice of cancellation of a fire insurance policy, of intention not to renew, or of reasons for cancellation or non-renewal to the named insured at his address shall be sufficient proof of notice. This changes the code to match the existing auto code section in regard to proof of notice mailing.

**MOTION:** **Senator Stegner** made the motion and **Senator Werk** seconded it to send H136 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill on the Floor.

**H140**  
**H141**  
**H200**

**Chairman Andreason** welcomed **Bob Corbell** to the podium to introduce H140, H141, and H200. Mr. Corbell asked to address all three together because of their similarities that overlap, and create some problems in each of the individual trades. H140 has one additional item that the other two do not have. The three Bureaus; (HVAC, Electrical, and Plumbing) with technology and the manner in which they do business causes an overlap. The HVAC contractors have to have a specialty electrical license, and in some cases may have a specialty plumbing license. The Electrical Contractor in some cases will have a HVAC license. These would allow that contractors of all three Bureaus would have the same license and that they don't have to have the crossover license as far as the bonding or the insurance goes. It does add to each with the concurrence of the Boards, that to renew a license the contractor would have to have proof of liability insurance and proof of workers compensation. Then everyone would be in the same playing field having \$300,000.00 of liability insurance and worker's compensation. In H140 under exemptions has Public utilities, public service corporations, intrastate gas pipeline companies, gas gathering pipeline companies, gas processing companies and municipal utilities, and their subsidiaries when performing work on their own facilities. That exemption was a request from Intermountain Gas because of problems they might have if asked for a certificate of competency. H141 we add the \$300,000.00 of liability insurance, and the worker's compensation, but there was never a bond required for Electrical Contractor. It is required for HVAC contractor and the Plumbing contractor. In H140 and H200 it exempts the \$2000.00 bond. He referred to conditions of the Plumbing bond. (See attached State of Idaho Division of Building Safety Plumbing Board) **Senator Goedde**, **Senator Stegner**, and **Senator Cameron** all had several questions and concerns regarding the bonding or lack thereof. Mr. Corbell said he would work with Roy Eiguren this summer to examine all types of licensing and draft legislation to present next session for uniform license bonds. **Senator Goedde** offered to help with that endeavor. **Roy Eiguren**, representing CNA/Western Surety Corporation spoke to H140 and H200. Mr. Eiguren said in order to fully insure and protect consumers it is important to have both a bond in place as well as proof of liability insurance and worker's compensation. Mr. Eiguren passed out to the committee of why bonds are important. (See "As a public official, how can you guarantee public security and protect consumer interest at no taxpayer cost?" Pamphlet attached)

**MOTION:** **Senator Goedde** made the motion and **Senator Werk** seconded it to send H140 to the 14th Order for amendment. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill.

**MOTION:** **Senator Goedde** made the motion and **Senator Broadsword** seconded it to send H141 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill on the Floor.

**MOTION:**            **Senator Stegner** made the motion and **Senator Compton** seconded it to send H200 to the 14<sup>th</sup> Order for amendment. The motion carried with a **Voice Vote**. **Senator Stegner** will sponsor the bill.

**ADJOURNMENT**    **Chairman Andreason** adjourned the meeting at 2:57 P.M.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** March 10, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Goedde, Compton, Broadsword, Werk, Malepeai, Senator Stegner was able to attend the last fifteen minutes of the meeting.
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:33 P.M.
- Chairman Andreason** explained to the committee that in order to accommodate the Department of Finance with a time conflict, **Marilyn Chastain** would present H75, legislation relating to the Idaho Money Transmitters Act to revise the Director's authority.
- H75** Amendments to the Idaho Money Transmitters Act
- The Department of Finance is charged with overseeing the activities of money transmitters conducting business with Idahoans. Money transmitters are those non-bank businesses that transmit funds, most often through wire transfers or the sale of money orders or other payment instruments. Particularly since September 11, 2001, the money transmission business has received increased attention because it has been implicated in money laundering and other financial crimes. The Department believes it is important to have these tools so it can effectively oversee the money transmitters operating in Idaho.
- The amendments proposed clarify the Department's authority to examine and investigate money transmitters, and sets forth the procedure that must be followed. It requires those licensed under the money transmitter act to maintain certain records for examination. Provides authority for the Department to share with federal and state authorities information obtained from Idaho money transmitters under certain conditions, and allows the Department to suspend or revoke the license of a money transmitter if the license holder is convicted of money laundering or violating a terrorism law.
- Senator Compton** asked if there was any opposition to this legislation? Ms Chastain said there was none.
- MOTION:** **Senator Compton** made the motion and **Senator Broadsword** seconded it to send H75 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.
- RS15116C1** **Senator Cameron** asked for unanimous consent to send RS15116C1 to the Judiciary and Rules Committee to print and then return to Commerce and Human Resources for further action. **Senator Cameron** explained RS15116

that was sent to the consenting committee at our March 8<sup>th</sup> meeting had a slight change and so needed to be corrected before it came back to committee. The purpose of this bill is to add a new benefit plan to the four existing benefit plans offered through the High Risk Pool. Those plans are referred to as 1. Basic, 2. Standard, 3. Catastrophic A, and 4. Catastrophic B. This bill adds a fifth plan as an HSA compatible benefit plan Unanimous consent was granted to send RS15116C1 to the consenting committee to print.

**Chairman Andreason** explained we would hear testimony on H163 and because of the many in the audience who wanted to testify the committee would hear from only one of the sponsors and then would allow (3) three minute testimonies so that all who traveled here from out of town would have a chance to be heard. He called **Jeremy Pisca**, representing the Idaho Building Contractor's Association to the podium.

## H163

The Contractor Registration Act - Currently there are no qualifications or requirements to become a building contractor in the state of Idaho. There is absolutely no way for the state to stop a "bad actor" even if we know that person is engaged in unscrupulous activity. Mr. Pisca gave each of the committee members a marked up copy of the bill and asked for the members to follow along for highlighted provisions.

- Registration will be required on January 1, 2006 allowing the Governor to appoint a Contractor Registration Board in anticipation of any unforeseen problems. (The definition of construction is used in a broad manner for this legislation.) All states surrounding Idaho already have Contractor Licensing.
- Exemptions include people who are already licensed under some other act, employees, volunteers, educational curriculums, non-profit activities, public utilities, people doing work under \$2000.00, owners performing work upon their own property, realtors acting within their scope in a regulated real estate transaction.
- Contractor Registration Board made up of three contractors and one member of the public. All Board members appointed by the Governor.
- Application Requirements - Social Security Number or Tax ID Number, Business Name and Address, Name and address of each principal, member, partner, shareholder, or any other person claiming an ownership interest. Compliance with worker's compensation insurance, provision for liability policy of not less than (\$300,000), statement that the applicant has never been denied or had revoked a contractor's license or registration privilege, and registration fee cannot exceed (\$150.00) (Registration shall be issued for a period of not less than 1 year nor more than 5 years as determined by the board)

What the opposition might say:

- Too much government - difference between good and bad government.
- Shuts out the little guy - It protects the little guy
- Tax Increase - Most carry insurance \$12.50 a month - At Most
- No "teeth" - revoke registration, deny lien rights
- \$2,000 not enough - increasing cap only allows more people harm

- Buyer Beware-should do homework but many don't know where to begin, what if construction fails, liens/tow of cards
- Doesn't prevent fraud- maybe not for the first consumer but can stop it before 2,3,4,5, and 6 get hurt.

**Senator Cameron** asked what the consumer would have to prove in order for a person to lose their registration? Mr. Pisca explained under the provision the Contractor Registration Board would have the authority to:

- Issue informal letters of reprimand
- Suspend a registration
- Revoke a registration
- Issue a formal reprimand
- Impose civil penalties
- See an injunction to stop further action

Discipline can be imposed of a contractor:

- Fails to keep current with the insurance requirements
- Employs fraud or deception in applying for registration
- Employs fraud or deception in applying for building permits
- Has been convicted of a violation of public laws relevant to contracting.
- The contractor has engaged in dishonorable or dishonest dealings
- If the contractor is grossly negligent or reckless in the performance of construction
- If the contractor has had his license, registration or certification by this or any other state revoked or suspended
- If the contractor has violated any provision of the Consumer Protection Act.

**Kevin Snell** of Rigby, ID a carpeting contractor representing himself and other carpeting contractors in his area. Mr. Snell spoke in opposition to H163. His concerns had to do with establishing a board and the board establishing rules and not knowing what those rules might be. The board can investigate and are given the authority to issue fines. The fact that if we don't like the board members, contractors have no recourse to get them dismissed from the board.

**Robert Lamoreaux** of Rigby, ID said this isn't good government. Legislators are elected officials who should represent the people. We should continue on like we have for the last 40 years and vote against this.

**Jeff Wade** with Precision Builders said he didn't realize that registering with the State of Idaho didn't protect his name. Someone took Precision Builders and incorporated, moved to another part of the state and Mr. Wade has been contacted by companies and the internal revenue service looking for the Precision Builder's Inc. If Idaho had any type of tracking program it would have helped locate that person, stopped him, and he would not be taking money from the consumer, not finishing his jobs, and he would be paying his employees who are calling Mr. Wade looking for payment and work. (Mr. Wade referenced an email he sent to each of the committee members regarding his support. Please see attached email)

**Kaylen Miskin** who works at the INEL as an instrumentation technician. Mr. Miskin referenced the David-Bacon Act. He said before the David-Bacon Act everything ran smoothly for installation of transmitters, and after the Act was

enacted they were two years out and they had to redo all installation. This bill is much like that and will not protect consumers. We believe the proper roll of government is to provide for people only those critical rolls they cannot perform only as individuals of private organizations. There should be less government not more. A major concern of Mr. Miskin in regards to the registration is the social security requirement. He doesn't want the state to have that information.

**Dave Rasmussen** of Rexburg, Idaho spoke to the \$2000.00 project limit issue. He said to look at city governments as major violators of bills like this. Example; In city government any project over \$5000.00 goes out to bid, and anything under \$5000.00 cities can hire who they want without putting the project out to bid. Cities will piecemeal projects rather than combine same-type projects and put them out for bid. Questions who should be licensed and who shouldn't. It is a governmental monster. He also stated concern with the governing board and the powers and authority to hire as many employees as they want. It won't be just \$150.00 in years to come it will be more. This bill gives the Board the authority to expand.

**Nancy Merrill**, Mayor of the City of Eagle and representing the Association of Idaho Cities Legislative Chairman said the Association of Idaho Cities supports the Contractor Registration Act. The AIC Legislative Committee voted in support of the contractor registration because of the need to provide a higher level of consumer protection to homeowners.

**Harold Harris** said he is a third generation contractor and if the money being spent to promote this bill and to fight this bill was being spent on consumer protection or consumer education we wouldn't need this bill. The consumer is ultimately responsible for taking care of their financial affairs. Another concern had to do with Realtors not having to be licensed while construction managers have that requirement.

**Alan Snell** said this bill has nothing to do about contractors, it is about feeding the attorney system.

**Ron Whitney**, owner of Whitney Homes and a member of The Building Contractor's Association of Southwest Idaho spoke in favor of this legislation. He said in the last two years he has stayed in close contact with contractors and subcontractors in the industry who are all in favor of this legislation. They feel this is clearly a consumer protection act and they don't feel that it is anything that will impair their ability to do business.

**Pat Collins** representing the Idaho Bankers Association spoke in support of this legislation. He said their members see the results of unscrupulous contractors from time to time. This wouldn't solve all of the problems overnight, but over time would weed out of the industry those who are unscrupulous. When the list comes available to consumers on line they will be able to check if the contractor they have hired is registered. They will know that they are insured, they have worker's compensation and that they have not been drummed out of the profession in another state or Idaho.

**T. Allen Hoover** spoke in opposition to this legislation. He has a degree in Political Science, Public Law, and Political Philosophy from Boise State University. (His testimony is attached) His conclusion is this is a poorly

crafted bill, laden with special interest exemptions.

**Henry Kulczyk** a Master Carpenter, and General Contractor spoke in opposition to this bill. He spoke to the punishment section where it is a misdemeanor to act without registration. He said this would affect people who want to hire their son, or son-in-law to come and help add on a deck. If the cost is more than \$2000.00 they have to be registered. He also talked about being a facilitator for 12 step programs and many of those trying to get their lives cleaned up worked odd jobs. With this bill they will be considered criminals if they aren't licensed. Mr. Kulczyk said there are some bad actors in every industry. He said if Realtor's did their due diligence they would make assurances that the homeowner had insurance and was protected by the title company. He said it is ludicrous that prosecutors have such a heavy caseload that they don't have time to go after the bad contractors. This solution would make more criminals, and increase the prosecutor's workload even more.

**Kristine Reynolds**, said I am the bookkeeper for my husband's company, Sunrise Development, which builds universally designed/handicap accessible homes here in the Treasure Valley. Although this bill will not change how we do business, we already have more than the suggested required insurance and warranty our homes for two years, we still serious concerns with regard to this proposed legislation.

I understand the motivation behind the bill is to bring additional legitimacy to the construction industry and to diminish the cases of dishonest contractors.

Before we hire a subcontractor, we use the preventative measures already in place by calling the Attorney General's Office Consumer Protection line and check to see if the contractor has an open or outstanding claims. If they do, we are mailed a copy of the actual complaint(s) and the resolution(s) if there are any on file. They also can verify the names of the officers of the corporation, and who has the authority to sign our contracts and lien waivers. Dishonest contractors will continue to cheat home buyers who do not take the preventative measures already in place.

Additionally, there is concern for the economic impact on the construction industry. We have appraisals from Star and Meridian ranging from \$104 - \$114 per square foot, in family neighborhoods like Rockbridge and Lochsa Falls. Each time there are additional increases in this industry, these homes become more difficult to afford.

The main concern we have would be how sections 54-5210 (d) & (e) would impact our immigrating contractors. As an Arizona native, I have personally seen undocumented laborers working for slave wages without proper safety precautions or equipment. In states that require licensing, it is assumed that when someone hires workers who are unlicensed, they pay 50 - 70% of the "going rate." If a contractor is here operating under a green card or other temporary status, it would be an understatement to say it would be extremely difficult to obtain worker's compensation and liability insurance, in addition to filling out forms in another language.

Stricter OSHA education and enforcement would better serve this part of our



community.

**Joseph A Rohner III**, a Real Estate Broker in Boise, also a member of the Ada County Association of Realtor's Political Affairs Committee. He spoke against this bill because it will adversely affect the Real Estate market and the economy of the State of Idaho by, 1.) Increasing construction costs of real property improvements through limiting the supply of contractor services. 2.) By raising property taxes through the increase of construction costs. 3.) By artificially restricting and limiting the choices of consumers of construction services by driving small businesses out of business. 4.) By injecting another costly level of bureaucrat intervention into the fare market which will immediately be passed on to the consumers of all contractor services. 5.) By offering a false promise of protection to consumers of contractor services.

**MOTION:**

**Senator Goedde** made a motion and **Senator Compton** seconded it to send H163 to the Floor with a Do Pass recommendation. **Senator Goedde** disclosed that he is an insurance agent and this could potentially increase insurance business for agents in this state. **Senator Broadsword** said her husband is a small contractor and she doesn't see how this bill could hurt his business. She has seen some of her constituents hurt by unscrupulous contractors and she thinks this will help prevent some of those acts. **Senator Compton** talked to the safeguards of annual Rules Review and protections needed for the consumers. **Senator Coiner** stated under this legislation he would probably be considered a contractor. **Senator Cameron** said even though he is an insurance agent he would not benefit from this bill. Senator Cameron asked Mr. Pisca if he was hiring his son-in-law to help with some construction and wanted to pay him, without registration would they not be skirting the law? Mr. Pisca explained when a permit is requested either they have the registration number or stamp the application with exemption so those applying for the permit on their own construction are aware of no registration. Senator Cameron stated that gave him heartburn. He also asked about this registration giving a sense of false security. Mr. Pisca said the only thing the registration will do is assure you that the contractor you have hired has not been caught doing anything bad. **Senator Cameron** made a motion to send H163 to the 14<sup>th</sup> Order for Amendment. There was no second to the motion and the motion died for lack of a second. The motion to send H163 to the Floor with a Do Pass recommendation passed with a Roll Call Vote. 8 Aye 1 Nay by Senator Cameron. **Senator Goedde** will sponsor the bill.

**ADJOURNMENT** **Chairman Andreason** adjourned the meeting at 3:06 P.M.

/s/ John C. Andreason

Senator John Andreason  
Chairman

/s/ Janet Cook

Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** March 15, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**CONVENED:** **Chairman Andreason** called the meeting to order at 2:03 P.M.

**MINUTES:** **Senator Coiner** made the motion and **Senator Broadsword** seconded it to approve the Minutes of February 24, 2005. The motion carried with a **Voice Vote** to accept the minutes of February 24<sup>th</sup>, 2005 as written.

**MINUTES:** **Senator Broadsword** made the motion and **Senator Coiner** seconded it to approve the Minutes of March 8, 2005. The motion carried with a **Voice Vote** to accept the minutes of March 8<sup>th</sup>, 2005 as written.

**Chairman Andreason** recognized **Mary Hughes** of the Department of Finance to speak on H88.

**H88** Idaho Financial Fraud Prevention Act

Main provisions of this legislation are entitled the "Financial Fraud Prevention Act".

Fraud is an increasing problem for Idaho's financial institutions and their customers.

This bill would give the Department of Finance authority to address that fraud in ways similar to what is in place to fight investment fraud under the Securities Act.

The law would cover all financial institutions regulated by the Department, including banks, credit unions, finance companies, mortgage brokers and lenders.

Generally, the following types of conduct will be illegal:  
Fraud against a financial institution,  
Fraud in the guise of a financial institution,  
Fraud against a consumer that is in some manner related to their relationship to a financial institution or a service or product of the financial institution.

Specific examples:

- defrauding a financial institution,
- identity theft,
- falsely promising to eliminate a debt (for example, a mortgage), and
- advance fee loan schemes.

The law will allow the Department to investigate the fraud and bring administrative (cease and desist orders) or civil actions (injunctions), or refer the case for criminal prosecution. It provides for enhanced penalties if money is taken from a consumer's retirement account or home equity, or if the victim is elderly or a dependent adult.

The Fraud Act has the support of the Idaho Bankers Association, Idaho Community Bankers Association, and the Idaho Credit Union League.

**Pat Collins** of the Idaho Bankers Association stood and spoke in support of H88 and the consumer protection it provides under the umbrella of the Department of Finance against fraud.

**Senator Werk** asked about the Continuing-Care Disclosure Act. Ms Hughes said a more minor part of this bill is to move the Continuing-Care Disclosure Act, in its entirety, from Title 67 to Title 26. Title 67 contains the laws establishing the Department of Finance; Title 26 contains the majority of the laws the Department administers. It was suggested by industry representatives that the Act more logically belongs in Title 26. No substantive changes to the law are proposed.

The Continuing-Care Disclosure Act was enacted in 1988 to resolve problems caused when residents of an Idaho nursing home lost money due to embezzlement and mismanagement. It regulates companies that offer to provide long-term care upon payment of an "entrance fee". Companies wanting to offer this type of program must register with the Department and provide disclosures to purchasers. No facility has yet registered to offer this type of program.

**MOTION:**

**Senator Cameron** made a motion and **Senator Broadsword** seconded it to send H88 to the Consent Calendar with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Cameron** will sponsor the bill.

**RS15149**

**Senator Cameron** asked for unanimous consent to send RS15149 to the consenting committee Judiciary and Rules to print and then be returned back to the Commerce and Human Resources Committee for discussion. He said the purpose of this legislation is to eliminate the exemption from the requirement for registration of any self-funded health care plans administered by or for any county of this State and thereby provide better protections for consumers and health care providers. Individual counties will have the opportunity to petition the Department of Insurance for an exemption from the investment requirements in this chapter. The legislation would also eliminate the need to pursue litigation to clarify the intent of current law with regard to such plans and would provide a level playing field by subjecting self-funded plans of counties to the same regulations and consumer protections as self-funded plans of other employers. Senator Cameron explained it was important to have a hearing on this for discussion that is open and on the record and that hearing it in committee would present that venue. Unanimous consent was given to send RS15149 to the consenting committee Judiciary and Rules to print.

**Chairman Andreason** welcomed **Mike Larsen** of the Department of

Finance to the podium to speak on H72, H73, H74, and H159.

**H72**

HB 72 is a housekeeping bill, the purpose of which is to remove exemption language within the Idaho Residential Mortgage Practices Act that is internally incompatible with the loan originator licensing provisions within that Act. The language sought to be removed was added to the Residential Mortgage Practices Act by HB 570 during the 2004 legislative session. The proposed amendment has industry support, including the 2004 sponsor of HB 570.

**Senator Malepeai** made a motion and **Senator Cameron** seconded it to send H72 to the Consent Calendar with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Malepeai** will sponsor the bill.

**H73**

HB 73 is a housekeeping bill to amend sections of the Idaho Residential Mortgage Practices Act that define the federal Real Estate Settlement Procedures Act (12 USC §2601, *et seq.*), the federal Truth-In-Lending Act (15 USC 1601, *et seq.*), Regulation X (24 CFR Part 2500) and Regulation Z (12 CFR Part 226) as including amendments up to January 1, 2005.

Idaho's Residential Mortgage Practices Act grants the Department of Finance the authority to enforce familiar and uniform federal standards in the residential lending arena. Briefly, the incorporated statutes and regulations provide the follow consumer protections:

**Truth-in-Lending Act (TILA) and Regulation Z:**

Provides for accurate disclosure of the cost of consumer credit.

**Real Estate Settlement Procedures Act (RESPA) and Regulation X:**

Establishes consumer protection requirements in the transaction of residential mortgage loans. Requires certain disclosures be provided to consumers and prohibits certain lending practices.

Passage of HB 73 will reduce regulatory burden on Idaho businesses by promoting uniform national standards that are familiar to the licensees under Idaho's Residential Mortgage Practices Act.

There were some questions from **Senator Goedde**, **Senator Stegner**, and **Senator Werk** in regards to addressing these amendments every year in committee. Mr. Larsen explained that should the Federal amendments ever be challenged in a court of law that they need to be specifically designated date certain for those Federal regulations and rules effected.

**MOTION:**

**Senator Werk** made a motion and **Senator Cameron** seconded it to send H73 to the Consent Calendar with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Werk** will sponsor the bill.

H74

HB 74 is a housekeeping bill that amends a section of the Idaho Credit Code that defines the federal Consumer Credit Protection Act as including amendments to January 1, 2005. This bill is supported by industry because it reduces regulatory burden on businesses by promoting uniform national standards that are familiar to the consumer finance companies regulated by the Idaho Department of Finance.

The Idaho Credit Code gives the Department the authority to enforce the federal Consumer Credit Protection Act (Idaho Code §28-46-104). That Act includes various federal laws that offer protection to consumers in credit transactions. The following are the most significant of those Acts:

**Truth-in-Lending Act:** Provides that all terms in a consumer credit transaction be fully disclosed. It also encompasses all advertisements except for statements made by a salesperson or clerk trying to make a sale.

**Fair Credit Billing Act:** Provides procedures for the correction of billing errors and restrictions regarding the handling of credit accounts.

**Equal Credit Opportunity Act:** This Act prohibits discrimination on the basis of a credit applicant's national origin, marital status, religion, color, sex, race, age, receipt of public assistance benefits, or the exercise of rights under the Consumer Credit Protection Act. This Act also requires that consumers be notified of any adverse action taken on credit applications.

**Electronic Funds Transfer Act:** Regulates electronic transfers of money by financial institutions.

**Fair Credit Reporting Act:** This Act restricts requests for, and uses of, information about a consumer's medical, credit, insurance, and employment history. This Act also encompasses the Fair and Accurate Credit Transaction Act (FACT Act), enacted in December 2003 as an important tool in the fight against identity theft. Most of the procedures and policies outlined in the FACT Act were adopted by December 2004.

**Fair Debt Collection Practices Act:** Places restrictions and prohibitions upon the activities of debt collectors.

Under the provisions of the Fair Debt Collection Practices Act, generally, "debt collectors" may not harass, oppress, or abuse consumers, must cease certain contacts and communications when requested to do so, and must identify themselves in certain circumstances. In addition, "debt collectors" may contact consumers, generally, only between the hours of 8:00 a.m. and 9:00 p.m., local time of the consumer.

**MOTION:**

**Senator Compton** made a motion and **Senator Goedde** seconded it to send H74 to the Consent Calendar with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill.

H159

HB 159 is a proposal by the Idaho Department of Finance to repeal the Idaho Guaranty, Title, and Trust Company Act, an outdated Act adopted in 1901 that purports to assign responsibilities to the Department of Finance

and to the Idaho Department of Insurance with no discernable meaning or supervisory framework. The Department of Insurance has indicated its support for repeal of this antiquated Act. Activities authorized by the Guaranty, Title, and Trust Company Act are comprehensively addressed by other provisions of Idaho law (such as Idaho's Insurance statutes, and Idaho's Trust Institutions Act). To our knowledge there are only 2 out-of-state companies using the Guaranty, Title, and Trust Company Act to arguably qualify as "Trust Companies" to conduct business in Idaho .

Another primary purpose of this Bill is the Department's proposal to enact a law regulating escrow agencies. Idaho is one of the few states that has not adopted a specific regulatory structure for oversight of independent escrow companies. The Department is getting an increasing number of inquiries from out-of-state companies inquiring about how to qualify to conduct escrow business in Idaho. The problem of fraudulent Internet escrow services is receiving increasing attention from state and federal agencies almost daily. The Department of Finance proposes that Idaho enact a law regulating escrow agencies for the protection of Idaho consumers. Without such a law, escrow companies in Idaho are literally able to handle, and may be entrusted with, millions of dollars of consumer funds without the consumer protection provisions that are typically applied to escrow services in other states.

With regard to establishing Escrow Agency licensing, this Bill exempts entities that are already regulated. By this Bill, the Department is seeking to provide a reasonable regulatory framework for unregulated persons who act in a trusted fiduciary capacity by providing escrow services to the public. I want to make it clear that this Bill does not seek to regulate the escrow operations of companies offering title insurance in Idaho. The Idaho Department of Insurance already has regulatory oversight of those entities.

More and more often the Department is getting the inquiry, "How do I become an escrow company in Idaho?" Even without the adoption of this Bill, the Department could impose provisions of the Trust Institutions Act or the Idaho Collection Agency Act on the business practices of independent escrow companies. Our attorneys tell us that there is colorable legal argument for being able to do so. However, the feedback that we're getting from Idaho independent escrow companies is that they would rather have a law specifically tailored to the escrow business. Regulating escrow companies as "collection agencies" or as "trust institutions" is a bit like trying to put a square peg in a round hole.

Through the Department's working with the Idaho Land Title Association, this Bill also proposes to amend a provision of Idaho law addressing who may serve as a trustee of a deed of trust, to clarify that reference to a "Trust Company" in statute means a "Trust Company chartered under Idaho's Trust Institutions Act. The Bill also includes an amendment to remove a twenty (20) day waiting period for notification of the intent to appoint a successor trustee. The Department has worked with the Idaho Land Title Association in proposing these amendments and, with the Chairman's permission, will defer to industry representatives to address any questions regarding these proposed amendments.

Finally, there will be an offer of an amendment to this Bill today by Mr. Phil Barber on behalf of his client. Mr. Barber did share this amendment language with the Department last week – and has been a real gentleman through this process. I have appreciated his candor and forthrightness. I have previously shared with Mr. Barber that the Department supports the Bill as written. I will simply say that Mr. Barber’s proposed amendment addresses a concept that was discussed at length and rejected unanimously by industry members during discussions on the language of this Bill. In proposing this Bill, the Department comes to this Committee having sought and received considerable input from industry. Significant changes to the Department’s initial draft have been incorporated in this Bill to address industry concerns. We have been through a thorough process of discussions with interested parties, including members of the Idaho Land Title Association and other industry representatives, as well as independent escrow companies in Idaho that will be directly affected by the passage of this Bill. The Department’s feedback indicates overall industry support for this proposal as written.

**Phil Barber** representing the Regional Trustee Services Corporation said his client is in support of this bill except for one provision. The Idaho Guaranty, Title and Trust Company Act was originally passed in 1901 and was the foundation vehicle for organizing the original title companies in Idaho, and it is now obsolete. My client and one other company offers Deed of Trust trustee services in Idaho. Unfortunately, House Bill 159, which repeals the old guaranty, title and trust company act, adds a comprehensive escrow act in its stead (the other area which the old law originally covered is now regulated under the Trust Institutions Act, and amends the Idaho Trust Deed law to reflect this modernization of our law. The trust deed law amendments did not provide for a continuation in business for firms like my client which were organized under the old law as deed of trust trustees.

We would like to insert on page 10, at line 39 of the printed bill, a new subsection 45-1504(1)(e). “(e) An escrow agent licensed pursuant to Chapter 9, Title 30, Idaho Code.” (See Attached) This relatively simple amendment is drawn directly from the comparable law in Oregon, where my client is regulated under the Escrow Act which is, for our purposes, indistinguishable from the Escrow Act proposed in HB 159 except for the subsection (e). With the proposed amendment, if my client qualifies for and is regulated under the Escrow Law it can continue to offer its competitive trust deed services for the benefit of Idaho’s citizens.

**Senator Stegner** had many questions for both Mr. Barber and Mike Larsen for clarification of the amendments to the Escrow Act and how the proposed amendment might apply to this Act and Mr. Barber’s client. Committee members were particularly interested in trying to understand who qualifies to become a Trustee of a Deed of Trust. Mr. Larsen explained that you could be an attorney, a bank, Saving and Loan, trust institution, an Idaho State Insurance Agent or Insurance Company to be a trustee under the legislative statutes. Mr. Barber stated that Trust institutions are forms of financial services organizations that provide financial trust services. His client is not

a financial services organization, it is effectively just like other Escrow holders. H159 having the Escrow Act, Deed of Trust Law with this amendment (e) would qualify Regional Trustee Services to be trustees of a Deed of Trust in Idaho. **Senator Werk** asked if Mr. Barber's client could change the way they are incorporated and do business to qualify under this new title to do business in Idaho? Mr. Barber said there are other ways to do business, but not as direct as this proposal. They could join with one of the entities that is a qualified Trustee, however with that the cost effect to Idaho consumers will go up. **Chris Rebhuhn** with Regional Trustee Services based in Seattle, Washington (Mr. Barber's client) explained their business. "We provide reconveyance lien release services nationwide and process foreclosures for a number of servicers and banks acting as trustee. Allowing this amendment would allow us to offer competitive pricing without having to pay someone else to sign our documents."

**ADJOURNMENT**

Because of time restraints and in consideration of the two committee chairmen who had meetings following, **Chairman Andreason** adjourned the meeting with the understanding that we would continue discussion on H159 at our next meeting. The meeting adjourned at 3:08 P.M.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary



## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

**DATE:** March 17, 2005

**TIME:** 1:30 p.m.

**PLACE:** Room 437

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

**CONVENED:** **Chairman Andreason** called the meeting to order at 1:34 P.M.

**Chairman Andreason** welcomed **Mike Larsen** of the Department of Finance to the podium to continue discussion from our last meeting on H159.

**H159** Mr. Larsen said he had nothing to add from the last meeting. **Senator Cameron** asked Mr. Larsen if he supported the amendment for an Escrow Agent to act as a Trustee. Mr. Larsen said he did not support the amendment. He said he had spoken with regulators in Oregon who have such a system, and they have made attempts to exclude Escrow companies to act as Trustees of Deeds of Trust. If this passes we will have some responsibilities over licensed Escrow Companies. The examiners in the Consumer Finance Bureau do not have the expertise on the conduct and practices of Trustees and Deeds of Trust so it would be something that would have to be learned.

**MOTION:** **Senator Cameron** made the comment that if this legislation should be amended that would be a totally different piece of legislation for next years session. With that, **Senator Cameron** made a motion and **Senator Compton** seconded it to send **H159** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Cameron** will sponsor the bill on the Floor.

**Chairman Andreason** welcomed Brad Dixon to the podium to speak on H161.

**H161** Good afternoon Mr. Chairman, members of the committee.

My name is Brad Dixon, I represent the Surplus Line Association of Idaho. We are requesting that this committee sent HB 161 to floor with a do pass recommendation.

161 does not enact any substantive change. The bill deals with a conflict between Idaho Code section 41-1218 and 41-1224.

As you know, under Idaho law, there are certain circumstances in which an insurance broker may place a surplus line policy with an insured. A surplus line policy is an insurance policy that is written by an insurer which is not admitted in the state of Idaho. However, there are times at which the only way to get insurance for a particular type of risk or for a particular insured is to go outside of the Idaho market. Thus, our statutes allow this sort of

placement, assuming that the insurance broker has a surplus line broker's license and reports such placements consistent with the statute and regulations.

Both Idaho Code section 41-1218 and section 41-1224 provide the same authority to the Department to revoke a broker's license for violation of Idaho Code section 41-1217. 41-1217 prohibits a broker from placing a policy with a surplus line insurer that the broker knows to be financially unsound. For a violation of 41-1217, 41-1218 says the Department "shall revoke," the license and 41-1224 uses the term "may revoke," the license providing for some regulatory discretion by the department.

We brought this to the attention of the Department of Insurance. We were advised by the Department that 41-1224© in their opinion does provide the necessary penalty for violating 41-1217 and that 41-1218 does the same thing but has some conflicting language. Thus, the department recommended that we simply delete the last sentence of 41-1218(1) as is indicated on this bill.

The bill will provide for the same remedy, make clear that it is a "may revoke" standard and make the chapter penalty provisions consistent.

As I already mentioned, the department of insurance has okayed this legislation and we are aware of no opposition to HB 161.

Therefore, we would request that the committee send the bill to the floor with a do pass recommendation.

**MOTION:** **Senator Compton** made the motion and **Senator Broadsword** seconded it to send **H161** to Consent Calendar. **Senator Goedde** stated for the record that he is a Surplus Lines Broker. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill.

**Chairman Andreason** welcomed **Rayola Jacobsen**. Ms Jacobsen asked that **Roger Hales** speak to the committee on H135 and H138.

**H135** Mr. Hales said he represents the Bureau of Occupational License and the Board of Architects. The purpose of this bill is to place a limitation upon the exemption to licence practice Architecture. Currently an unlicensed person can design a multi-family residence as long as it does not exceed two stories. The Federal Fare Housing Act requires that multi-family residences that exceed three units must include in design certain accessibility standards. The Board of Architectural Examiners felt to protect the health, safety and welfare of the public that multi-family residences exceeding three units a licensed architect has to be involved in the design.

**MOTION:** **Senator Coiner** made the motion and **Senator Broadsword** seconded it to send **H135** to Consent Calendar. The motion carried with a **Voice Vote**. **Senator Coiner** will sponsor the bill.

**H138** The purpose of this bill is to allow the board members of the Board of Architectural Examiners to be eligible to enroll in PERSI the Public Employee Retirement System of Idaho. Originally they were members of PERSI, at a

later time there were some tax issues in regard to individual retirement accounts and being a member of PERSI retirement account created some discern and they were moved out. **Senator Cameron** asked **Alan Winkle** of PERSI to give some clarification to the retirement account for the Board members and the impact it might have on the general fund.

**MOTION:** **Senator Stegner** made the motion and **Senator Compton** seconded it to send **H138** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Cameron** voted no. **Senator Stegner** will sponsor the bill on the Floor.

**H234** **Rayola Jacobsen** said this bill is being brought to you by the Idaho Board of Barbers and the Bureau of Occupational Licenses, This legislation revises licensure and gives clarity to the approval requirements for barber colleges to allow consideration of training obtained outside of Idaho. Also, this legislation when vacancies occur will provide that the Governor shall give consideration to all nominations when appointing the Board of Barber Examiners.

**MOTION:** **Senator Compton** made the motion and **Senator Stegner** seconded it to send **H234** to the Consent Calendar. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill.

**S1198** **Senator Cameron** presented S1198. The purpose of this bill is to add a new benefit plan to the four existing benefit plans offered through the High Risk Pool. The four existing benefit plans offered now are: 1.) Basic, 2.) Standard, 3.) Catastrophic A, and 4.) Catastrophic B. This bill adds a fifth plan as a HSA compatible benefit plan. HSA's or Health Savings Accounts by federal law require certain benefits for an individual to qualify for the tax deductibility. The High Risk Pool Board felt that individuals should not be prohibited from participating in the HSA just because they only qualify for High Risk Pool products. Senator Cameron explained that people have two opportunities when coming into the High Risk Pool: 1.) If the carrier has denied them or has determined that they are High Risk individuals, or 2.) if their premium is lower in the High Risk Pool than on their private policy. Individuals can choose the plan that best fits their circumstances. **Senator Cameron** disclosed that he does sell Insurance and could possibly profit from the sale of one of these policies.

**MOTION:** **Senator Goedde** made the motion to send S1198 to the Consent Calendar, and **Senator Broadsword** seconded it. **Senator Stegner** stated an objection to sending S1198 to the Consent Calendar. **Senator Werk** made the motion and **Senator Broadsword** seconded it to send **S1198** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Cameron** will sponsor the bill on the Floor.

**Chairman Andreason** welcomed **David Bennion** to the committee to introduce H263.

**H263** Mr. Bennion, chairman of the Idaho Public Works Contractor Licensing Board explained in 2004 a Public Works Contracting Task Force was formed to improve the accountability and efficiency of the Public Works procurement and construction process with these issues in mind. (1.) Improvements to the public works contractor licensing process through better reporting of

information; (2.) Increased responsibility for license holders; (3.) Clarification of jurisdiction for the public works contractor licensing board; and (4.) Increased consequences for ethical or performance failures by public works contractors. There were over 30 participants involved with this Task Force (See List Attached), and initially had nine issues to address. It was decided by the Task Force to prioritize and bring two of the issues to the legislature this year. 1. Violations in enforcements where there were bidding problems and award problems. 2. Alternative procurement pre-qualification process. **Michael Gifford**, with the Associated General Contractors said the purpose of the Public Work's Licensing is to protect tax payer dollars at the local and state level. One protection is bonding provided by the general contractor to insure the project will be completed. Another protection is a license of type of construction to insure that the contractor who holds that type of license actually knows how to build the project. With the license registration if there are any violations there is an agency to investigate and enforce the requirements. **Ken Harward**, with the Association of Idaho Cities explained the effort to consolidate various local government purchasing will be more cost effective for local government and the state. This legislation gives better definition procedures for procuring goods and services including a pre-qualification process for contractors, documentation of semi-formal purchasing and providing recourse for disappointed bidders, penalties for violations and better scrutiny of the bidding process. **Jerry Mason**, also with the Association of Idaho Cities addressed the main points of the bill. (Please see Improving Public Works Construction and Purchasing handout attached)(See also H263 Roadmap attached.) **Senator Cameron** asked to be walked through the bidding process and Mr. Mason reviewed the process with the committee.

**MOTION:** **Senator Cameron** made the motion and **Senator Werk** seconded it to send **H263** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Andreason** will sponsor the bill on the Floor.

**Chairman Andreason** welcomed **Bob Corbell** to the podium to speak on H139.

**H139** H139 exempts the telephone companies and other utilities from the National Electrical Code (NEC). The NEC now covers the communications industry in order to ensure there is no interference in installation of communications and electrical wiring. The utilities support the legislation. The Idaho Electrical Board will make rules, after input from the communication industry, which will be presented to the 2006 Legislature. HB139 is for the exemption of utilities; the legislation is necessary in order to make rules that affect communications other than utilities. The Idaho Electrical Board supports this legislation.

**MOTION:** **Senator Broadsword** made the motion and **Senator Cameron** seconded it to send **H139** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Broadsword** will sponsor the bill on the Floor.

**Chairman Andreason** welcomed **Angela Richards** to the podium.

**H160** Mr. Chairman, Members of the Committee, my name is Angie Richards and

I'm an attorney representing PCI, the Property Casualty Insurers Association of America.

PCI is a trade association of over 1,000 property and casualty insurance companies operating in the United States. Many of those companies are authorized to sell insurance in Idaho including Farm Bureau, American Family, Allstate, and Liberty Northwest.

Currently, several states, including Idaho, have statutes that dictate specific fire insurance policy terms—these are called Standard Fire Policy statutes. The original purpose of the standard fire policy statutes was to define common fire insurance coverage provisions following the great fires in San Francisco and Chicago in the early 20<sup>th</sup> century. From time to time, states have either amended or repealed their standard fire policy statutes. For example, in the 1950's and 60's some states added a nuclear exclusion to exclude loss or damage due to nuclear reaction.

Today terrorism risk threatens insurance company solvency. Starting in 2001, following 9/11, Regulators began allowing insurers to exclude terrorism risk from their contracts because that risk was difficult to price due to the unpredictability of terrorist attacks. The federal government continues to forecast that terrorism will remain a threat for the foreseeable future. In late 2002, the US Congress passed the Terrorism Risk Insurance Act (TRIA) which created a temporary federal reinsurance program to protect insurers against losses excess of about \$10 billion stemming from a terrorist attack. The federal legislation also allows consumers to reject terrorism coverage.

Our bill would allow for, but not require, exclusion of terrorism coverage in commercial insurance policies. The amendment is necessary for several reasons. First, to be consistent with the federal law, state law should also allow consumers the choice to completely opt out of terrorism coverage. Second, the law needs to allow the opportunity for use of complete terrorism exclusions to ensure industry solvency. Third, if exclusions are not allowed, it may force consumers into the non-admitted market because admitted carriers may decide not to write fire policies at all. This may be counterproductive from a price and availability standpoint. Finally, without this amendment, the potential exists for insured to get terrorism coverage without paying the price for the specific coverage. This means the costs that should have been paid are shifted to other consumers.

You'll note that the legislation was amended in the House. The House Committee wanted to have a specific definition of terrorism so that there would be a common understanding of what was being excluded. Our definition is borrowed from TRIA and includes terrorism committed by individuals acting on behalf of foreign persons or foreign interests.

At this time, approximately 31 states either allow commercial terrorism exclusions or do not regulate specific fire insurance policy terms.

Again you will notice that the language of our proposed amendment will only apply to commercial policies, not personal lines policies. We have reviewed this legislation with Department of Insurance and other insurance companies and are not aware of any objections. I'd be glad to answer any questions you may have.

**MOTION:**

**Senator Goedde** made the motion and **Senator Cameron** seconded it to send **H160** to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Goedde** will sponsor the bill on the Floor.

**H162**

Mr. Chairman, Members of the Committee, my next bill is sponsored by Idaho Insurance Guaranty Association. The Guaranty Association is an organization authorized by statute (Chapter 36 of Title 41) which is made up of property and casualty insurers authorized to do business in Idaho including workers comp, auto and home insurers.

When a property and casualty insurance company becomes insolvent, the Guaranty Association steps into the shoes of the company and, within certain statutory limits, adjusts and pays all claims (Examples of statutory limits: the Guaranty Association pays claims only up to \$300,000 except for workers compensation claims for which it covers 100% of the liability; it reimburses policyholders for unearned premiums only up to \$10,000; and it does not cover certain types of insurance listed in Section 41-3603).

To pay for those expenses, the Guaranty Association assesses the property and casualty insurance companies authorized to do business in Idaho based on their premium levels in Idaho. (Example: In 2003, the Guaranty Association assessed its members \$9.2 million to pay for claims relating to insolvencies by the Paula, Millers, Home and Freemont insurance companies.) As part of the process, the Guaranty Association eventually files its own claims with receiverships of the insolvent insurance company, to receive partial refunds for its expenses. Historically, the Guaranty Association has made prorated refunds to the members; however, most of the time the Guaranty Association keeps the money to adjust and pay claims in future insolvencies.

This legislation will clarify existing law relating to the refund obligations of the Guaranty Association. In last year's session, the legislature passed HB 512, which allowed the Guaranty Association members to use assessments paid to the Guaranty Association as an offset against their premium tax obligations. There have been no assessments since HB 512 was enacted.

There are two Idaho Code sections affected by our bill: 41-3608(2)(f) and 41-3616(2). The original language in 41-3608 provided that if there was unneeded money in the Guaranty Association, it would be refunded to the members. The law passed last year, 41-3616, provides that unneeded money in the Guaranty Association will be returned to the State general fund. As currently worded, the two sections are somewhat inconsistent with each other.

Our first clarification is to make the two sections consistent with each other so that refunds received (and not reused) that relate to the assessments made before any premium tax credits were allowed will be returned to members of the Guaranty Association. Refunds received in the future (and not reused) that relate to assessments made for which premium tax credits were allowed, will be returned to the State general fund.

Our second clarification found in both code sections is that money will be refunded if it will not be needed within two years from the date the Guaranty Association receives the refund from the insolvent insurance company. The reason for this delay is that insurance company insolvencies are often slow motion events. Sometimes the Guaranty Association knows 2 years in advance that a company will become insolvent even though it doesn't actually happen until the end of the 2 years. The Guaranty Association has always been slow to pay any refunds because it is cheaper to reuse the money rather than refund it and then issue another assessment a few months later. As a consequence, the legislation states that there will be a refund if, in the opinion of the Association Board, the money will not be needed within two years after receipt of a refund.

This legislation has been reviewed by the Department of Insurance and other insurance companies and I am not aware of any objection. I'd be glad to answer any questions you may have.

**MOTION:** **Senator Cameron** made the motion and **Senator Werk** seconded it to send **H162** to Consent Calendar. The motion carried with a **Voice Vote**. **Senator Cameron** will sponsor the bill.

**ADJOURNMENT** **Chairman Andreason** thanked everyone for such a productive meeting and adjourned the meeting at 2:55 P.M.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** March 22, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:34 P.M.
- MINUTES:** **Senator Compton** made a motion and **Senator Broadsword** seconded it to accept the Minutes of March 10, 2005 as written. The motion carried with a Voice Vote.
- MINUTES:** **Senator Werk** made a motion and **Senator Broadsword** seconded it to accept the Minutes of March 15, 2005 as written. The motion carried with a Voice Vote.
- Chairman Andreason** welcomed **David Bennion** to the podium to present H337.
- H337** This bill is a trailer bill to H263. It fixes an error in that bill that caused trouble for the Idaho Tax Commission in tracking contractors and subcontractors for state and local government contracts. H337 also (1) Clarifies that the state must use the contractor who submitted the lowest responsible bid, and (2) Clarifies the process of qualifying as a general contractor when a contractor pre-qualifies as a subcontractor under Category Type B. The bill points back towards Category Type A.
- MOTION:** **Senator Compton** made a motion and **Senator Coiner** seconded it to send H337 to the Floor with a Do Pass recommendation. The motion carried with a **Voice Vote**. **Senator Compton** will sponsor the bill on the Floor.
- Chairman Andreason** welcomed **Senator Cameron** to the podium to present S1219.
- S1219** **Senator Cameron** disclosed that he makes his living selling life and health insurance, however, he did not believe this was a potential conflict of interest as this legislation was not intended to put any entities out of business nor is it intended to limit competition. The purpose of this bill is to make sure that no one is given an unfair advantage in the playing field and to protect consumers.
- As background, Senator Cameron explained that employers purchase traditional insurance as a method to attract their employees. With that form of insurance, the individual or employer pays a premium and the insurance company assumes the risk. When an employee makes a claim, the insurance company runs the risks for that claim. The concept of self funding has developed where the employer assumes the risk. The federal



government made it illegal for states to regulate the self-funded plans except those of government entities, as the tax-payers are at risk when any government chooses to self-fund.

There are benefits and risks to self-funding. The risks include 1) Self-funding is devoid of any government regulation and consumer protection, and 2) Less security for the employees and more liability to the employer, and sometimes, employers will purchase re-insurance, which means that the provider company will cover up to a certain amount such as \$25,000 and then the re-insurance will pay any claim beyond that. This latter company can refuse to insure individuals.

Traditional insurance cannot single out anyone if they qualify as an employee of the employer.

This bill involves self-funded insurance as well as Multiple Employer Welfare Arrangements (MEWA). This latter concept is where several entities band together to cover their insurance risk. MEWA can purchase fully insured programs or they can choose to self-fund. Idaho laws are void on MEWA. However, the Department of Insurance ruled that all insurance laws still apply these arrangements. Most MEWAs fail, as employers that keep their claims down can find cheaper insurance elsewhere and withdraw, thus causing the dissolution of the arrangement.

S1219 addresses the Gem Plan, pooled self-funded MEWAs made up of Idaho counties. The self-funded MEWAs are not regulated by the Department of Insurance. This bill seeks to regulate this exception by requiring the Gem Plan to provide documentation and to register with the Department. The Gem Plan was being sold as a "no more risk" than a traditional insurance program. Senator Cameron asserted this is an untrue statement and the individuals making this claim should be reprimanded. Part of this bill was to make sure that counties know exactly the nature of the Gem Plan. In addition, proponents of the Gem Plan assert that no one can be carved out of the program. Again, the Senator called this statement untrue. The counties must understand and accept the responsibility for the added risk if the Gem Plan or the reinsurance carrier chooses to carve out any employee.

**Senator Compton** said that there were examples of pooled insurance plans that were successful, giving as an example ICRIM and the Idaho Association of Loggers that have successful programs. He asked if the Senator had heard of these before. **Senator Cameron** responded that he had but that these were not health insurance plans but instead were property and casualty, and workman's compensation plans. **Senator Goedde** added that ICRIM was not a relevant example, as it was regulated.

**Senator Broadsword** asked how the bill, as stated in the Statement of Purpose would bring about a positive financial impact? **Senator Cameron** said that S1219 would bring in premium taxes from the Gem Plan or other self funded multi-county plans, which previously were exempt.

**Senator Werk** asked if he knew of any county employee who was carved out by a re-insurance company. Senator Cameron said that the re-insurance

program can cut out a whole county or employer group or they can carve out individuals. He stated there is evidence that individuals have already been carved out.

**Chairman Andreason** asked what the situation of bankruptcy was like in self-funded plans? Senator Cameron said a bankruptcy could leave the employees without coverage, and claims unpaid to providers.

**Senator Coiner** asked why should the large counties be exempted? Senator Cameron said that the individual entities have knowledge of the risks to their employees. With a MEWA, the entities do not know what risks they are taking on when they enter into these arrangements. The counties need to know into what they are entering.

**Senator Goedde** asked if **Shad Priest** of the Department of Insurance would characterize the Gem Plan as an MEWA. Mr. Priest responded in the affirmative.

**Chairman Andreason** welcomed **Woody Richards** of Property Casualty Insurance Association of America. Mr. Richards said his organization supports this bill as an interim solution. The PCIAA wants a level playing field for all insurance companies, meaning they want the same level of regulation for all.

**Phil Barber**, representing the Idaho Counsel for the American Insurance Association, said that the states have a special responsibility for regulating insurance to protect the consumers as the federal government does not regulate. The AIA supports this bill because it regulates more consistently.

**Bill Brown**, an Adams County Commissioner and a member of the Gem Plan board, said that the board of the Gem Plan are very serious about their stewardship of public money. The members of the board are elected officials. He made the point that smaller counties cannot self-fund on their own as the larger counties such as Ada, Canyon, and Kootenai can. The Gem Plan allows them to do that and it further saves the public money.

**Senator Werk** stated that the counties were now capped at 3% for revenues and there have been double digit increase in health care costs. He asked how the Gem Plan was balancing the two and what would happen if it went into insolvency. Mr. Brown stated that the savings were into five to six figures and that there was an underwriter plan that saved the counties from taking the risk on themselves. **Senator Broadsword** asked if any employees have been excluded based on pre-existing conditions and/or any other factors. Mr. Brown said no and all users were very satisfied with their experience. **Senator Cameron** asked if the counties were informed that employees could be carved out down the road. Mr. Brown said no and went on to say that most people know that there is a risk of being carved out of an insurance plan if they should become ill. **Senator Cameron** said that was not the case with traditional insurance. He went on to ask if the users were informed that they were forfeiting their rights to transfer to a traditional plan should they have health problems. Mr. Brown responded in the negative.

**Todd Lakey**, representing the Gem Plan, said that he stood in opposition to S1219. The Gem Plan is the same as large county self-funding on their own,

and has had zero complaints from the Department of Insurance. The plan is run by elected officials. It is to secure maximal benefits to users with minimal impact on county funds. There is already government regulation and oversight. For safety, the plan has an actuary, underwriting consultants, and stop loss coverage. It is beginning to accrue reserves. **Senator Cameron** asked if he acknowledged that counties or individuals could be carved out. Mr. Lakey said he did, but said that the fact remained that they were not. **Senator Goedde** asked if one had a complaint, where would one take that complaint. Mr. Lakey said that if there was a complaint, it could be first taken to the county government, the Gem Plan board, or the Department of Insurance. **Senator Goedde** asked what would happen if a complaint was filed with the Department of Insurance. Mr. Lakey said that they would probably say that there was nothing they could do.

**Michael Goss**, of Myriad Benefits and Alternatives, took the podium to talk about the broker relationship to the Gem Plan. Mr. Goss stated that they have several clients that self-insure and in each case the employer is the one who makes the decision about the plan. The employer's employees know that they are insured through the self-insurance plan with their employer. With the Gem Plan there is no clear line of responsibility and employees covered under this plan don't know who else is covered, and ultimately they don't know who is responsible. When a claim problem occurs there is no clear line for responsibility and no defining process for appeals.

**Ron Ramirez**, former Teton County Commissioner, and member of the Idaho Association of Counties organizing committee of the Gem Plan. Mr. Ramirez is currently serving as the Executive Director of the Gem Plan and has been in the insurance business for years. Mr. Ramirez handed out a Gem Plan Fact Sheet. (Please see attached) Many of the committee members had questions for Mr. Ramirez in regard to an employee under the Gem Plan who had been carved out of the plan, and the Gem Plan's provision differences to a traditional plan, which cannot carve out coverage. **Senator Cameron** asked if Mr. Ramirez was aware that participants of the Gem Plan could potentially be carved out of coverage. Mr. Ramirez said there is always that potential, but the insurance business is very competitive and it is easy to find a reinsurance company to take your business. Mr. Ramirez's statement that there is always the potential to carve out participants in any plan was questioned by Senator Cameron.

The Senator asked if **Shad Priest** would yield to a question. Senator Cameron asked, "Under current Idaho Statute and under federal guidelines can an individual insurance carrier under a traditional plan carve out any individual who they have previously insured?" Mr. Priest said that under state and federal law if it is an employer sponsored plan they have to offer that plan to all employees on the same basis. No one can be carved out.

Mr. Ramirez was asked how the Board would handle the additional risk of claims when someone is carved out and if the additional risk would be passed on to the counties? He said in the case where the individual had been carved out, that individual would be covered as any other county employee. The employee probably wasn't even aware that the reinsurance company was charging them more for his coverage. He would continue to

be covered as any other employee.

**MOTION:**

**Senator Cameron** made the motion, in the interest of time and in the interest of this important issue, to send **S1219** to the Health Care Task Force for their review along with Mr. Lakey and Mr. Ramirez's documented help, and come back next session with a piece of legislation that meets the middle ground so that the consumers of counties are protected. **Senator Compton** seconded the motion. The motion carried with a **Voice Vote**.

**Chairman Andreason** made a presentation to **Noel Herrick**, our committee Page, a gift and letter commending him on a job well done, and thanking him for all of his hard work.

/s/ John C. Andreason

Senator John Andreason  
Chairman

/s/ Janet Cook

Janet Cook  
Secretary

## MINUTES

### SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** March 24, 2005
- TIME:** 12:59 p.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Stegner, Goedde, Compton, Broadsword, Werk, Malepeai
- CONVENED:** **Chairman Andreason** called the meeting to order at 1:02 P.M.
- MINUTES:** **Senator Malepeai** made the motion and **Senator Broadsword** seconded it to accept the Minutes of March 17<sup>th</sup>, 2005 as written. The motion carried with a Voice Vote.
- RS15198** **Chairman Andreason** explained RS15198 was a concurrent resolution to provide a total compensation system for state employees, which includes competitive job market average salaries and rewarding performance with a merit based compensation philosophy. The resolution recommends funding an ongoing 1% increase in personnel costs for merit based salary increases. An additional ongoing 1% increase in personnel costs for merit based salary increases would be targeted to certain employees as follows: (1) who have been employed with the state for seven continuous years; (2) who are below the policy point of their pay grade; and (3) whose salary is \$40,000 or less. This resolution also recommends funding the estimated increase in employee-paid health insurance premiums. The general fund fiscal impact subject to actual appropriations by the Joint Finance-Appropriations Committee would be (1) 2% ongoing increase in personnel costs: \$11,676,200 (2) Employee's share of increase in health insurance premiums; \$485,000. **Chairman Andreason** said he had met with **Senator Cameron** this morning and wanted some discussion on taking action with this RS. **Senator Cameron** reviewed the possibilities with revenues available with and without the cigarette tax. With the cigarette tax the 1% is possible, without the tax there will be a deficit. In reality the funds are not there to support this resolution. Through much discussion and many comments by every committee member, because the funds simply are not available to meet the resolution provisions, the committee decided against sending RS15198 to a consenting committee to print.
- Chairman Andreason** called on **Senator Goedde** to introduce H331.
- H331** The current physician's reimbursement system employed by the Industrial Commission is seriously flawed. The Advisory Committee to the Industrial Commission has struggled unsuccessfully to correct the problem for over two years. HB331 adopts a fee schedule and affords the Industrial Commission the authority to set conversion factors. It is understood that overall physician reimbursement may decrease by up to 10% by taking into consideration current billings for services outside the norm. The Industrial Commission shall consider conversion factors employed by health insurers in Idaho as

well as conversion factors employed by other states in our region when establishing the original conversion factors. Additionally, when setting conversion factors, the Commission must be conscious of the need for access to services for injured workers. Should the legislature find that the Commission has not exercised due diligence and restraint, it is acknowledged that future legislatures may opt to establish said factors in statute. The bill relating to Worker's Compensation amending section 72-803 of Idaho Code reads as follows: 72-803, Claims of Attorneys and Physicians and for medical and related services - approval. Claims of attorneys and claims for medical services and for medicine and related benefits shall be subject to approval by the commission: provided however, that fees for physician services shall be set using relative value units from the current year resource based relative value system (RBRVS) as it is modified from time to time, multiplied by conversion factors to be determined by the commission in rule. Factors will be set for, at least, the following CPT code areas: medicine, surgery, physical medicine, radiology, anesthesia and pathology. The fees shall be adjusted each year using the same methodology as set forth in section 56-136, Idaho Code. In cases where RBRVS units are not available or have no relation to industrial claims, relative value units for fees for physician services shall be determined by the commission. Initial conversion factors shall be determined by the commission no later than January 1, 2006, to be effective April 1, 2006.

**Senator Werk** said his wife is a Physiatriist, a rehabilitation and physical medicine specialist. Part of her practice is independent medical examinations and disability determinations associated with worker's compensation cases. Senator Werk said this legislation has been needed for a while and added that reimbursements needed to be high enough to keep good physicians doing their work. He expressed appreciation to Senator Goedde for his work with this legislation.

**Woody Richards** representing American Family Insurance Company, and Property Casualty Insurers Association and, **Kent Day** of Liberty Northwest Insurance Corporation both spoke in support of H331. They both thanked Senator Goedde for his work in bringing this legislation forward. H331 would help create a balance, address what was usual and customary helping to reduce disputes, and would be very helpful in controlling costs. **Ken McClure**, representing the Idaho Medical Association said the Medical Association supported this legislation, but cautioned that the rules implementing the fee schedule need to be considered carefully. He commented that adoption of conversion factors which are too low will result in reimbursements that are too low, and that might result in too few physicians participating with the worker's compensation system. He also commented that adopting conversion factors is not as easy as it might appear and expressed concern that everything has to go just right in order to meet the time-line in the bill.

**MOTION:**

**Senator Compton** made the motion, and **Senator Broadword** seconded it to send **H331** to the Floor with a Do Pass recommendation. The motion carried with a Voice Vote. **Senator Goedde** will sponsor the bill on the Floor.

**Chairman Andreason** asked **Tom Limbaugh** of the Industrial Commission to address the Commission's position and concerns. Mr. Limbaugh said they

would certainly do what they could and if everything ran smoothly they would be able to meet the time frame for the initial conversion by January 1, 2006.

**ADJOURNMENT**    **Chairman Andreason** adjourned the meeting at 1:55 P.M.

/s/ John C. Andreason  
Senator John Andreason  
Chairman

/s/ Janet Cook  
Janet Cook  
Secretary