

House Business Committee

Minutes
2006



MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 17, 2006

TIME: 1:30 P.M.

PLACE: Room 408

MEMBERS: Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED:** Rep. Deal

GUESTS: Robert Meinen, Kent Kunz, Rebecca Davis, Jack Lyman

Meeting was called to order at 1:33 p.m. by **Chairman Black**, who welcomed committee members back to the Business Committee. Chairman Black noted that the committee has already received quite a few pieces of legislation, and that he anticipates an active and busy session.

Chairman Black asked committee members whether any of them would have any proposed legislation. **Rep. Henderson** stated that he will be proposing a method of paying for highway improvements by utilizing a method known as STAR, Sales Tax Anticipation Revenue. Under this method, a private business pays the cost of needed improvements such as a freeway interchange to provide access to the business, and then recover that cost by receiving a rebate of the sales taxes they collect over the next several years.

Chairman Black introduced **Mr. Bob Meinen**, Director of the Idaho Department of Parks & Recreation, for a presentation entitled "Experience Idaho" which explains proposed improvements to Idaho's parks system.

Mr. Meinen explained that the plan proposed in "Experience Idaho" will represent a substantial investment that will cover major improvements as well as much-needed maintenance that has been delayed in the past. He then presented a video which gave an overview of the plan. According to the video presentation, Idaho offers a multitude of outdoor recreational activities, including walking, camping, hiking, fishing, and boundless natural resources. Idahoans have always recognized the importance of setting aside special places in the state for recreation. Idaho's parks and recreation areas receive about 2.5 million visitors per year, approximately the same number of visitors as Yellowstone National Park. The average visitor spends more than \$26 per day, which represents an expenditure of \$72 million per year. The proposal includes needed updates and new facilities in Idaho's existing parks, upgrades to some historic park facilities such as lodges, and a new state park in a yet-to-be-determined southeastern Idaho location.

The video presented a brief summary of the planned projects in each of Idaho's parks, including Heyburn, Ponderosa, Eagle Island, Thousand

Springs, Harriman, and others. These include new campgrounds and cabins, renovations of existing buildings such as a ranch house and a lodge, and a new visitor's center.

Following the video, Mr. Meinen entertained questions from committee members. In response to committee questions, Mr. Meinen said that the department is working to improve its telephone and internet reservations system, which has been overwhelmed since its inception. He also stated that, although the state will be paying for construction of lodges, the actual operation of the lodge will be undertaken by private enterprise, as has been the case in the past. Mr. Meinen stressed that no location has been chosen for the new southeastern Idaho park, but that the general location being most often considered is between Pocatello and Rexburg.

In answer to further questions, Mr. Meinen said that he did not have specific figures for out-of-state versus resident visitors, and did not have a total revenue figure. He also noted that the department does not control the cost of boating licenses, and said that the Legislature could look at revising the reciprocity agreement with the State of Washington.

Chairman Black thanked Mr. Meinen for the informative presentation.

He then assigned **Vice Chairman Collins** as Chairman of the Rules Subcommittee, which will be charged with studying all administrative rules changes and recommending appropriate action to the whole committee. Members of the Rules Subcommittee will be **Reps. Bilbao, Chadderdon, Henderson, Nonini, and Rusche**.

Rep. Collins announced that the subcommittee would operate in the same fashion as last year, with each subcommittee member assigned to serve as acting chairman for specific agencies. He therefore appointed **Rep. Nonini** to the Department of Insurance and the Board of Professional Engineers and Professional Land Surveyors; **Rep. Bilbao** to the Department of Finance and the Board of Accountancy; **Rep. Chadderdon** to the Real Estate Commission and the Board of Occupational Licenses; and **Reps. Henderson and Rusche** to the Division of Building Safety.

In response to questions from the committee, Rep. Collins stated that all committee members are free to attend any subcommittee hearings on rules, and that they would be notified of all dates and times for the subcommittee's meetings.

Chairman Black explained that questions had been raised about rules of the Division of Building Safety that have been written as a result of the passage of House Bill 139 from the 2005 legislative session. He explained that last year the Division of Building Safety adopted the National Electrical Code, and that within that code there are references to low voltage wiring. The rules developed in relationship to low voltage wiring became controversial, and the Division of Building Safety decided to withdraw one of them and ask that another one be rejected by the Legislature. The third rule, involving a fee schedule, does not necessarily need to be rejected because if the other two rules are rejected, the fee schedule has no effect. Chairman Black stated that the Division of Building Safety will meet with the people affected by these rules and will work out new rules to present next year.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:45 p.m.

Representative Max Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 19, 2006

TIME: 1:30 p.m.

PLACE: Room 408

MEMBERS: Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED:** Rep. Snodgrass

GUESTS: Rayola Jacobsen; Michael Larsen; Marilyn Chastain; Jerry Peterson; Bob Corbell; Barbara Porter; Melissa Nelson; Dustin Miller

Meeting was called to order at 1:30 p.m. by Chairman Black. Rep. Miller moved that the minutes of the previous meeting be approved as written; motion carried on voice vote.

RS 15443C1: **Hugh O’Riordan**, an attorney representing the Board of Trustees of the Idaho Clean Water Trust Fund, appeared before the committee to present **RS 15443C1**. This legislation will change the \$50 per diem payment made to Board members to a \$50 honorarium. Since an “honorarium” is not considered a qualifying pension payment, this will allow Board members to continue their own IRA plans.

MOTION: **Rep. Deal** moved to **introduce RS 15443C1 to print; motion carried on voice vote.**

Rep. Nonini announced that, in the interest of disclosure, he wanted to let the committee know that he is a member of the Clean Water Trust Fund Board.

Contractor Registration **Rayola Jacobsen** appeared before the committee to provide a report on the contractor registration program which was established as a result of legislation passed during the 2005 legislative session. Ms. Jacobsen said that voluntary registration became available on July 1, 2005, and that the Bureau of Occupational Licenses has completed 7,782 registrations since that date, with an additional 3,500 applications currently in process. Ms. Jacobsen stated that, prior to the July 1 date, efforts were made to inform the public about the new registration program; brochures and posters were distributed, and mailings were made to city and county officials as well as to suppliers and lumber yards. Informational meetings were held across the state by the Building Contractor Associations, the Better Business Bureau, various banks and Realtors. In all, over 55,000 brochures were printed and distributed.

Ms. Jacobsen also stated that, while the registration process began slowly, the number of applicants seeking registration rose dramatically as the

deadline drew closer toward the end of 2005. She provided a number of examples to illustrate the camaraderie among contractors in the state, and said that in general the process had gone smoothly. Because of the negative discussions that surrounded this issue during the last legislative session, Ms. Jacobsen requested that all negative calls, e-mails and personal contacts be directed to her. She said that less than one percent of the contacts made with the Bureau were negative; one-fourth of the applicants were strongly supportive, a small minority were concerned about government intrusion, and the majority were trying to make sure they complied with the new law. In general, those applicants who may have initially presented objections have become more cooperative once the law is adequately explained to them.

Ms. Jacobsen noted that, because of the tremendous number of applicants, there has been a slight backlog in processing time, but that the Bureau is working to resolve this backlog prior to February 1. She thanked the committee for the opportunity to be involved in this registration effort.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE SUBCOMMITTEE ON ADMINISTRATIVE RULES

DATE: January 19, 2006

TIME: 1:50 p.m.

PLACE: Room 408

MEMBERS: Chairman Collins, Reps. Bilbao, Chadderdon, Henderson, Nonini, Rusche
Also in attendance: Rep. Miller

**ABSENT/
EXCUSED:** None

GUESTS: Rayola Jacobsen; Michael Larsen; Marilyn Chastain; Jerry Peterson; Bob Corbell; Barbara Porter; Melissa Nelson; Dustin Miller

Meeting was called to order at 1:55 p.m. by Chairman Collins.

Docket No. 01-0101-0501 **Barbara Porter**, Executive Director of the Board of Accountancy, presented **Docket No. 01-0101-0501** to the committee. This rule will update the date reference in the incorporated national standards from 2005 to 2006, thus keeping Idaho in compliance with the current national standards. Ms. Porter stated that the new rules had been published through the Office of Administrative Rules, and that the Board has received no negative feedback on them.

MOTION **Rep. Henderson** moved to recommend that the Business Committee **accept Docket No. 01-0101-0501; motion carried on voice vote.**

Docket No. 12-0108-0501 **Marilyn Chastain**, Securities Bureau Chief of the Department of Finance, presented **Docket No. 12-0108-0501** to the committee. Ms. Chastain testified that in 2004, the Legislature repealed the entire Idaho Securities Act and enacted a new one. During the year that the new act along with the accompanying new rules have been in place, some flaws and deficiencies have been found. The proposed rules in this docket are intended to fix the problems, which are not substantive and are mostly clarifying and housekeeping matters.

Ms. Chastain reviewed details of the new rules. For example, the revised rules will allow companies in business for less than twelve months to use "reviewed" financial statements instead of audited financial statements. They also specify whether or not an agent of an issuer needs to be registered if he is not being compensated for sale of the securities issued by his employer. The rules also address situations in which the Department of Finance can extend the date for a registration from 30 days to 45 days.

MOTION **Rep. Rusche** moved to recommend that the Business Committee **accept Docket No. 12-0108-0501; motion carried on voice vote.**

**Docket No.
12-0110-0501**

Michael Larsen, Consumer Finance Bureau Chief of the Department of Finance, presented **Docket No. 12-0110-0501**. He explained that in 2004 the Legislature adopted amendments to the Idaho Residential Mortgage Practices Act which required loan originators to get their own licenses. This new requirement was implemented in January 2006. In June 2005, the department published notice of negotiated rulemaking and worked closely with the mortgage industry. Many discussions were held, and no negative comments were received. Mr. Larsen reviewed provisions of the new rule, which implements continuing education requirements, defines licensees as loan originators, and incorporates definitions.

Mr. Larsen reported that the Department has been receiving inquiries from continuing education providers throughout the United States who are interested in becoming accredited to offer credits and courses in Idaho. He stated that education providers will pay an initial application fee of \$250 and a renewal fee of \$150 every two years. The rule also includes a list of education providers who are "presumptively approved," such as the National Association of Mortgage Brokers and the Department of Finance. Mr. Larsen also pointed out that the rule eliminates the requirement that a loan originator needs to demonstrate a net worth of \$10,000 or more.

In response to committee questions, Mr. Larsen said that loan originators will be required to earn 16 hours of continuing education credits every two years. Course fees vary from no cost to \$100 per credit. He also said that the Idaho Association of Mortgage Brokers and Idaho Mortgage Lenders Association plan to provide continuing education courses to their members at no cost, and there will be other opportunities to earn credits at minimal cost. Mr. Larsen stated that last fall the Department traveled to five different locations throughout the state and trained close to 1,000 individuals who are becoming licensed as loan originators. To date, the feedback has been overwhelmingly positive.

MOTION

Rep. Bilbao moved to recommend that the Business Committee **accept Docket No. 12-0110-0501; motion carried on voice vote.**

**Docket No.
10-0101-0501**

Dave Curtis, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **Docket No. 10-0101-0501** to the committee, noting that the Board held public meetings to inform the public about these pending rules, but that no one had attended. Mr. Curtis said that the purpose of these new rules is to update the contact information for the Board, which has moved to new offices. The other purpose of the rule change is to allow the Board to discontinue proctoring examinations except for state-specific examinations for land surveyors.

MOTION

Rep. Nonini moved to recommend that the Business Committee **accept Docket No. 10-0101-0501; motion carried on voice vote.**

Rayola Jacobsen, Bureau Chief of the Bureau of Occupational Licenses, introduced **Roger Hales**, an attorney who represents the Bureau, to present the Bureau's proposed administrative rules changes.

**Docket No.
24-0101-0501**

Mr. Hales presented **Docket No. 24-0101-0501**, rules of the Board of Architectural Examiners. These rules update document dates from 2004 to 2005, update the contact information for the board by providing the current

internet address, and clarify the examination process. Mr. Hales stated that the Bureau also wants to adopt rules to set a time from in which one must pass a national examination. The recommended time frame for an applicant to take and pass the examination is five years.

MOTION

Rep. Chadderdon moved to recommend that the Business Committee **accept Docket No. 24-0101-0501; motion carried on voice vote.**

**Docket No.
24-0801-0501**

Mr. Hales then reviewed the new rules for the Board of Morticians, **Docket No. 24-0801-0501**, noting that the Bureau had received no negative comments regarding these rules. The rules change the internet address of the Board, define “funeral establishment,” and “resident trainee,” and add some other definitions. Mr. Hales explained that a mortician is licensed to perform all funeral-related activities, including embalming, while a funeral director can meet with the family but cannot embalm a body. The new rules clarify a number of issues such as time allowed for completion of examinations, requirements to obtain a license, the maintenance of pre-need trust account fees. The rules also clarify recordkeeping requirements.

MOTION

Rep. Henderson moved to recommend that the Business Committee **accept Docket No. 24-0801-0501; motion carried on voice vote.**

**Docket No.
24-1801-0501**

Mr. Hales presented **Docket No. 24-1801-0501**, rules for the Real Estate Appraiser Board. He said that these rules clarifies continuing education requirements for the Board, and stated that the Bureau had received no comments concerning these rules.

MOTION

Rep. Rusche moved to recommend that the Business Committee **accept Docket No. 24-1801-0501; motion carried on voice vote.**

**Docket No.
24-1901-0502**

Mr. Hales presented **Docket No. 24-1901-0502**, which contain further rules for the Board of Real Estate Examiners. These rules change the Board’s internet address, strike confusing language, and clear up some confusing language in regard to meetings and required quorums. Mr. Hales also explained that the federal government will be implementing new requirements for education and training requirements which will be effective January 1, 2008. The Board needs to implement rules to match these new requirements, but needs to do so one year in advance, in order to allow enough time for proper and timely implementation. These changes will not affect existing licensees, but only those who are applying for new licenses. Mr. Hales stated that there has been some confusion about why the Board is implementing changes one year in advance. He suggested that anyone with concerns about this should be referred to the Board of Real Estate Appraisers for an explanation.

MOTION

Rep. Rusche moved to recommend that the Business Committee **accept Docket No. 24-1901-0502; motion carried on voice vote.**

**Docket No.
24-2101-0501**

Mr. Hales presented **Docket No. 24-2101-0501**, rules of the new Idaho State Contractors Board. These rules are basic rules which are necessary in the establishment of a new board, including the address, the legal authority, a definition of terms, the organization of the board, and so forth. The rules also include adoption of fees for registration and renewal, which

are \$30 for the initial application and first year's registration, and \$25 for the annual renewal fee.

MOTION

Rep. Chadderdon moved to recommend that the Business Committee **accept Docket No. 24-2101-0501; motion carried on voice vote.**

**Docket No.
24-2201-0501**

Mr. Hales presented **Docket No. 24-2201-0501**, rules of the new Idaho State Liquefied Petroleum Gas Safety Board. He noted that there has been no comment from the public following the publication of these rules. Again, the rules include basic information such as legal authority, title, scope, and definition of terms. They also include requirements for licensing LPG dealers and installers of LPG tanks, storage facilities, and license and renewal fees. Consistent with the other 21 boards that the Bureau represents, the LPG Safety Board rules contain the requirements that need to be met, the discipline rules, civil fines, costs and fees.

In response to committee questions, **Ms. Jacobsen** said that a delivery driver of a truck delivering propane does need to be licensed under these rules. She said that the Board provides two registration cards, one to be carried by the driver or deliverer, and one to be posted in a conspicuous place in the office. Any driver of an LPG truck should be able to show the registration card with his/her name, a seal, an indication that it was issued by the Bureau, and a listing of the profession for which he/she is licensed.

MOTION

Rep. Rusche moved to recommend that the Business Committee **accept Docket No. 24-2201-0501; motion carried on voice vote.**

Chairman Collins reminded the subcommittee that their next meeting will be on Monday, January 23, immediately following the regular Business Committee meeting.

There being no further business to come before the committee, the meeting was adjourned at 3:30 p.m.

Representative Gary Collins
Subcommittee Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 23, 2006

TIME: 1:30 p.m.

PLACE: Room 408

MEMBERS: Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED:** Rep. Rydalch

GUESTS: John Mackey, Lynn Tominaga, Amy Castro, Kimberly Coster, Donna Jones, Jim Genetti, Gina McBride

Meeting was called to order by Chairman Black at 1:30 p.m. **Rep. Rusche** moved to approve the minutes of the January 19 meeting; **motion carried by voice vote.**

RS15453 **John Mackey**, representing United Heritage Financial Services, Inc., presented **RS 15453** to the committee. This legislation will allow domestic insurance companies, with the approval of the Department of Insurance, to pay a commission or placement fee in conjunction with the issuance of debt instruments, commonly called "surplus notes." This is currently not allowed under Idaho statute. Since the payment of a commission is common practice in today's environment, this legislation will allow Idaho insurance companies to compete with other states in this regard.

In response to questions from the committee, Mr. Mackey stated that he does not know why the prohibition was originally put in place, but that the financial world has changed and the prohibition now puts Idaho companies at a competitive disadvantage.

MOTION **Rep. Nonini** moved to send **RS 15453** to print; **motion carried on voice vote.**

RS 15459 **Mr. Mackey** then presented **RS 15459**, on behalf of United Heritage Financial Services. This legislation will allow Idaho insurance companies to lend up to eighty percent (80%) of value on commercial properties. Currently, Idaho law allows insurance companies to make commercial loans on a seventy-five percent (75%) loan-to-value ratio. Since other states allow the 80% loan-to-value ratio, Idaho is at a competitive disadvantage. This disadvantage will be eliminated with passage of this legislation. Mr. Mackey said that he is not aware of any objections, and that there is no fiscal impact to the state as a result of this legislation.

MOTION **Rep. Deal** moved to send **RS 15459** to print; **motion carried on voice vote.**

RS 15470 **Mr. Mackey**, representing United Heritage Financial Services, presented

RS 15470 to the committee. He explained that this legislation will allow limited investment by domestic insurance companies in foreign securities, which is currently restricted under Idaho Code. He said that the Department of Insurance is aware of this legislation and that there is no opposition to it. Mr. Mackey said that the limitation on foreign securities is 15% of a company's investment.

Shad Priest, Department of Insurance, was recognized to answer a question about whether the 15% limitation was for each type of investment (securities, common stock, real estate) or whether the 15% applied to the aggregate amount of a company's investments. Mr. Priest stated that he would check on this detail and would report back to the committee.

Mr. Mackey, responding to further questions, said that all necessary information is available to the Department of Insurance in order to allow them to calculate risk-based capital. He also said that this legislation will allow investment in all foreign securities, whether they are issued by a foreign company or by a U.S. company which has relocated to a location outside the United States.

MOTION **Rep. Collins** moved to send **RS 15470** to print; **motion carried on voice vote.**

RS 15474 **Mr. Mackey**, representing United Heritage Financial Services, presented **RS 15474** to the committee. He explained that it is common industry practice for insurance producers or companies to give small gifts to applicants or policyholders, although current Idaho law prohibits gifts in any amount, including even such items as pens, calendars, or lunches. This legislation will bring Idaho Code into alignment with current industry standards. Mr. Mackey said that the Department of Insurance is aware of this legislation and has no objection to it.

Responding to a question, Mr. Mackey said that the \$50 limitation is an aggregate limit per event, not a \$50 per-item or per-year limit.

MOTION **Rep. Deal** moved to send **RS 15474** to print; **motion carried on voice vote.**

Chairman Black reminded committee members that the full committee will not meet on Wednesday, January 25, but that the Administrative Rules Subcommittee will meet at the Division of Building Safety to review its proposed rules. All committee members are free to attend this subcommittee meeting.

ADJOURN There being no further business to come before the committee, the meeting was adjourned at 1:50 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

**HOUSE BUSINESS COMMITTEE
SUBCOMMITTEE ON ADMINISTRATIVE RULES**

DATE: January 23, 2006

TIME: 1:55 p.m.

PLACE: Room 408

MEMBERS: Chairman Collins, Reps. Bilbao, Chadderdon, Henderson, Nonini, Rusche
Also present: Rep. Miller

**ABSENT/
EXCUSED:** None

GUESTS: Amy Castro, Kimberly Coster, Donna Jones, Jim Genetti, Gina McBride

Meeting was called to order by Chairman Collins at 1:55 p.m. **Rep. Henderson** moved to **approve** the minutes of the January 19 meeting; motion carried on voice vote.

Donna Jones, Executive Director of the Idaho Real Estate Commission, appeared before the committee to review the Commission's proposed rules. Ms. Jones stated that two of their rules are fee rules which lower licensing fees charged by the Commission, and one is a transfer of some continuing education requirements from rule to statute.

Docket No. 33-0101-0401 Ms. Jones first presented **Docket No. 33-0101-0401**, which reduces licensing fees from \$220 to \$200 per licensing period. In discussion with committee members, Ms. Jones said that the reduction is made possible because of good management at the Commission, as well as the recent explosion in the number of real estate licensees. Currently, the Commission is dealing with the highest level of licensing in its history, which has placed a greater burden on existing staff. She reported that she has requested two additional staff positions, which are already budgeted for in next year's budget. Ms. Jones also said that there are currently a little over 10,000 licensees in Idaho, an increase of 45% from 2004 to 2005.

MOTION **Rep. Chadderdon** moved to recommend that the Business Committee **approve** Docket No. 33-0101-0401; **motion carried on voice vote.**

Docket No. 33-0101-0502 Ms. Jones then presented **Docket No. 33-0101-0502**, which represents a further reduction in licensing fees from \$200 to \$180, with a requested effective date of October 1, 2005. However, the Governor declined to approve this as a temporary rule. The Commission is therefore requesting committee approval with a retroactive effective date of October 1, 2005.

MOTION **Rep. Henderson** moved to recommend that the Business Committee **approve** Docket No. 33-0101-0502 with an effective date of October 1, 2005; **motion carried on voice vote.**

**Docket No.
33-0101-0501**

Ms. Jones presented **Docket No. 33-0101-0501**, which eliminates certain continuing education requirements that have now been codified into the License Law statute as a result of last year's amendment of the Real Estate License Law.

MOTION

Rep. Rusche moved to recommend that the Business Committee **approve** Docket No. 33-0101-0501; **motion carried on voice vote.**

Ms. Jones advised the committee that, when she returns to the Business Committee later in the session to present a number of housekeeping bills, she will also provide more exact figures on the number of Idaho real estate licensees.

Shad Priest, Deputy Director of the Department of Insurance, was recognized to review the Department's proposed administrative rules. Mr. Priest first introduced other personnel from the Department, including **Gary Smith**, Director of the Department; **Jim Genetti**, Bureau Chief for Consumer Affairs; **Gina McBride**, Consumer Affairs Supervisor; and **Joan Krosch**, Health Insurance Coordinator.

**Docket No.
18-0109-0501**

Mr. Priest presented **Docket No. 18-0109-0501**, which deals with consumer protection for seniors involved in annuity transactions. He explained that last year's legislation requires insurance producers or insurers to have reasonable grounds for believing that a particular annuity is a suitable investment for a senior client, based on the client's age, financial needs, and other factors. The legislation was an attempt to address growing problems with sales of annuity products to seniors. The rules include definitions, list transactions that are exempt, and specifies the information that needs to be given to the senior consumer. It also provides that the producer will not be held responsible for unsuitability if the senior client will not disclose the necessary information to determine suitability of an annuity product.

Mr. Priest stated that these rules are largely taken from the model rule developed by the National Association of Insurance Commissioners, but that they include modifications for additional problems in Idaho. First, a senior's signature is required if the senior consumer rejects a recommended product and chooses to invest in another product. This provision protects both producer and consumer, as well as encouraging honest behavior by the very small segment of insurance producers who may be interested primarily in the highest commissions rather than the good of the consumer. The second modification is that Idaho requires retention of records in annuity transactions for the life of the contract, rather than for the three years recommended in the model rule. These records must be retained by the insurance producer.

MOTION

Rep. Nonini moved to recommend that the Business Committee **approve** Docket No. 18-0109-0501; **motion carried on voice vote.**

**Docket No.
18-0110-0501**

Mr. Priest then presented **Docket No. 18-0110-0501**, which deals with producers' handling of fiduciary funds. He explained that this rule serves to implement a law passed last session which requires agents and brokers to retain funds held as fiduciaries in a separate trust account. These are funds that do not belong to the broker but that are being held until they can be transferred to another party as part of an insurance transaction. Prior to this

legislation, the agent could put these funds anywhere he or she wanted, including commingling them with his or her own money. The proposed rule set forth time periods, required documentation of receipt of funds, and what types of accounts will qualify as trust accounts. It also sets forth prohibited practices and requirements for making timely disbursements of fiduciary funds.

Mr. Priest said that the Department had gone through a lengthy process in developing these rules, consulting with a large number of insurance producers and trying to make the rule effective without being overly burdensome. He reported that, although a number of concerns were raised during the process, the department believes that these concerns have been addressed.

MOTION

Rep. Nonini moved to recommend that the Business Committee **approve** Docket No. 18-0110-0501; **motion carried on voice vote.**

**Docket No.
18-0118-0501**

Mr. Priest then presented **Docket No. 18-0118-0501**, which deals with surplus lines insurance. These are lines of insurance for which there are no readily available policies with licensed insurance carriers. Surplus lines insurance carriers are not licensed by the state, although they do have to register with the Department and appear on a list maintained by the Department. These rules contain updates, listing additional lines and deleting lines that are now available from licensed companies. Mr. Priest said that there have been no objections to the changes being made.

In response to questions from the committee, Mr. Priest said that there often is a price difference between licensed companies and surplus lines companies, since the surplus lines are not subject to licensing and other expenses. Idaho law, however, does state that even if it's less expensive to buy from a surplus lines company, a consumer cannot do so unless coverage is not available from any licensed carriers. Consumers are protected by the guarantee association when they use a licensed carrier, a protection that does not exist with the surplus lines companies.

MOTION

Rep. Rusche moved to recommend that the Business Committee **approve** Docket No. 18-0118-05011; **motion carried on voice vote.**

**Docket No.
18-0154-0501**

Mr. Priest presented **Docket No. 18-0154-0501**, which is based on the NAIC Medicare Supplement Insurance Minimum Standards Model Act. These supplement plans were mandated by the federal government and thus all states have uniform rules. These rules create a Medicare Advantage Plan and also incorporate a number of other provisions made necessary by federal law. Mr. Priest stated that there have been no negative comments received on these rules.

Responding to committee questions, Mr. Priest said that the Department has received a lot of calls from confused consumers, and that the Department has set up a network to try and respond to those calls. There is some concern that perhaps agents and/or companies are not adequately trained in the intricacies of these products.

MOTION

Rep. Bilbao moved to recommend that the Business Committee **approve** Docket No. 18-0154-0501; **motion carried on voice vote.**

**Docket No.
18-0173-0501**

Mr. Priest presented **Docket No. 18-0173-0501**, which deals with Idaho's high risk reinsurance plan for those not otherwise eligible for health insurance coverage. Last year, legislation was passed to create a new type of policy, a Health Savings Account policy. This rule implements that law by creating a design for a health savings account policy that would be reinsured by the high risk pool.

MOTION:

Rep. Henderson moved to recommend that the Business Committee **approve** Docket No. 18-0173-0501; **motion carried on voice vote.**

Chairman Collins reminded the subcommittee members that they would be meeting at the Division of Building Safety in Meridian on Wednesday afternoon, and that the committee secretary would make the necessary transportation arrangements. He also noted that there are a couple of rules which have raised negative concerns from some parties, and asked that the subcommittee be familiar with the Division's proposed rules in order to discuss these concerns on Wednesday.

ADJOURN:

There being no further business to come before the subcommittee, the meeting was adjourned at 2:40 p.m.

Representative Gary Collins
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE SUBCOMMITTEE ON ADMINISTRATIVE RULES

DATE: January 25, 2006

TIME: 1:10 p.m.

PLACE: Offices of the Division of Building Safety, 1090 E. Watertower, Meridian

MEMBERS: Chairman Collins, Reps. Bilbao, Chadderdon, Henderson, Nonini, Rusche
Also present: Rep. Black

**ABSENT/
EXCUSED:** None

GUESTS: Gary Malmen, Ted Hogander, Marsi Woody, John McAllister, Jack Rayne,
Steve Keys, Bob Corbell, Maria Barratt, Shawna Holder, Linda Hyde

Meeting was called to order by Chairman Collins at 1:10 p.m. Chairman Collins thanked the Division for providing lunch and for inviting the subcommittee to meet at their offices. **Rep. Rusche** moved to **approve** the minutes of the January 23 meeting; motion carried on voice vote.

Steve Keys, Bureau Chief of the Division of Building Safety, was recognized by Chairman Collins to review the Division's proposed rules. Mr. Keys introduced John McAllister, administrator; Marsi Woody, bureau chiefs, and other Division employees. He explained that he would be presenting the dockets in a slightly different order than the published agenda, and that Mr. Jack Rayne, Building Bureau Chief, would present the rules from his bureau.

Docket No. 07-0104-0501 Mr. Keys presented **Docket No. 07-0104-0501**, which expands the number of resident effluent pumps a specialty electrical licensee may install to include three-family residential applications. This change is being proposed in response to requests from industry, and no negative comments or objections have been received regarding it. In response to a question, Mr. Keys clarified that this rule applies to tri-plex residential buildings.

MOTION **Rep. Rusche** moved to recommend **approval** by the Business Committee of Docket No. 07-0104-0501; **motion carried on voice vote.**

Docket No. 07-0104-0502 Mr. Keys presented **Docket No. 07-0104-0502**, which was formulated to clarify and carry out the provisions of last year's House Bill 139. Mr. Keys said that the electrical board held statewide hearings on this rule, but that little comment was received during the designated comment period. Since then, however, it has become clear that this rule does not fit a significant portion of the telecommunications industry which would fall under it. Therefore, the Division of Building Safety is requesting that the Business Committee reject this rule. Mr. Keys said that the Division has been in discussion with industry participants, and believe that the industry can and will develop a regulatory scheme, with the assistance of the Division, more appropriate to their industry.

Responding to questions, Mr. Keys explained that this rule would have

imposed a permit and inspection requirement for limited energy installations, and that if the rule is rejected, there are no such requirements.

MOTION **Rep. Nonini** moved to recommend **rejection** by the Business Committee of Docket No. 07-0104-0502; **motion carried on voice vote.**

Docket No. 07-0106-0501 Mr. Keys presented **Docket No. 07-0106-0501**, which adopts the 2005 edition of the National Electrical Code. He stated that there has been no comment and no opposition to this rule, and that it is a basic updating that is done every three years.

MOTION **Rep. Henderson** moved to recommend **approval** by the Business Committee of Docket No. 07-0106-0501; **motion carried on voice vote.**

Docket No. 07-0206-0501 Mr. Keys presented **Docket No. 07-0206-0501**, which deletes a section referring to seismic bracing. He explained that "seismic strapping" refers to the way that pipes are secured to a structure in order to withstand damage caused by earthquakes. Since bracing requirements vary by seismic zone, they are more properly imposed by local building jurisdictions.

MOTION **Rep. Rusche** moved to recommend **approval** by the Business Committee of Docket No. 07-0206-0501; **motion carried on voice vote.**

Docket No. 07-0501-0501 Mr. Keys presented **Docket No. 07-0501-0501**, relating to the Public Works Contractors Licensing Board. This rule will require a contractor to demonstrate that he has performed projects near the upper limit of his current license in order to qualify for an upgrade. The change also eliminates the ability of a third party to financially indemnify a license applicant. Mr. Keys said that no comments have been received on this rule change, and he is aware of no opposition.

In response to committee questions, Mr. Keys said that about one-fourth of licenses are currently indemnified by a third party. This percentage equates, in Mr. Keys' estimation, to about 500 licensees. Mr. Keys explained that under the new rule, a contractor can get a bonding letter from a bonding company stipulating the limits they are willing to bond the contractor, according to the size of the project. The Board's expectation is that if a contractor is applying for a license with a \$1 million limit, the contractor should be able to obtain a statement that a bonding company would bond him for at least a million dollars.

Bob Corbell, who represents HVAC and electrical contractors, was recognized to comment. Mr. Corbell said that everyone understands that third-party indemnification does not involve any financial liability whatsoever by the third party. Under the new rule, a contractor will need a letter from a bonding company just to get licensed. Then, when he is awarded a public works contract, he will have to provide the bond to cover that job. The letter simply tells the Bureau that he is able to get that level of bonding.

MOTION **Rep. Rusche** moved to recommend **approval** by the Business Committee of Docket No. 07-0501-0501; **motion carried on voice vote.**

Docket No. 07-0701-0501 Mr. Keys presented **Docket No. 07-0701-0501**, which clarifies the codes that serve as the basis of regulation by the HVAC Bureau. The rule will also

establish requirements for specialty HVAC journeyman certification and for apprentice and specialty apprentice registration. Mr. Keys said that no comments have been received on this rule, and he is aware of no objections.

MOTION

Rep. Bilbao moved to recommend **approval** by the Business Committee of Docket No. 07-0701-0501; **motion carried on voice vote.**

**Docket No.
07-0701-0502**

Mr. Keys presented **Docket No. 07-0701-0502**, which sets the experience and education requirements for HVAC Hearth Specialty Journeymen, and removes grandfathering provisions that are no longer applicable. Again, no objections have been raised to this rule.

Mr. Keys further explained that "hearth" specialty journeymen are people who install gas appliances like heaters and fireplaces. He also commented that the required examination has not yet been developed by the bureau.

Bob Corbell explained that when a law was passed two years ago to require the examination, all those hearth people were grandfathered in with a license. To this point, no one in training as an apprentice has yet reached a point where they need an examination. Since there is no adequate test available yet from national sources, the bureau is developing its own test.

MOTION

Rep. Rusche moved to recommend **approval** by the Business Committee of Docket No. 07-0701-0502; **motion carried on voice vote.**

**Docket No.
07-0206-0502**

Mr. Keys presented **Docket No. 07-0206-0502**, which addresses problems that installers of water conditioning equipment are encountering in the field. The rule mandates that water softener drain lines must be 3/4" minimum size, rather than the currently allowed 1/2" line. This change involves little additional cost at the time of installation, and avoids expensive modifications by owners in order to accommodate many of the water conditioners being installed after construction is complete. Mr. Keys said that the division is not aware of any opposition to this rule.

MOTION

Rep. Rusche moved to recommend **approval** by the Business Committee of Docket No. 07-0206-0502; **motion carried on voice vote.**

**Docket No.
07-0102-0501**

Mr. Keys presented **Docket No. 07-0102-0501**, which modifies the current electrical permit fee schedule by establishing a \$10 permit and inspection fee for small jobs of less than \$200 that do not involve a change in the service connection. The current fee for all jobs is \$40, regardless of the size of the job, which deters customers from buying permits for smaller jobs. Mr. Keys said that the opposition to this rule seems to be related to Docket No. 07-0104-0502, a rule which the division earlier asked be rejected.

Responding to committee questions, Mr. Keys said that an example of a "small" job might be the addition of an electrical outlet or the installation of a new light fixture, jobs which would cost perhaps \$100. He also said that if the homeowner hires a licensed contractor to do the work, it is the contractor's responsibility to get the permit.

MOTION

Rep. Nonini moved to recommend **approval** by the Business Committee of Docket No. 07-0102-0501; **motion carried on voice vote.**

**Docket No.
07-0203-0501**

Finally, Mr. Keys presented **Docket No. 07-0203-0501**, which cuts the permit fee for sewer and water lines for one-family or two-family residences if installed by a plumbing contractor. The fee change from \$50 to \$16 recognizes that the plumbing contractor is already paying for inspection of the plumbing in the facility being constructed and the new lower fee will be sufficient to support the inspection activity. Mr. Keys said he is aware of no opposition to this change. Mr. Keys also confirmed that the \$16 fee would apply even in the case of a plumber doing the work to convert a residence from a septic system to a sewer line.

MOTION

Rep. Rusche moved to recommend **approval** by the Business Committee of Docket No. 07-0203-0501; **motion carried on voice vote.**

Jack Rayne, Building Bureau Chief for the Division of Building Safety, was recognized by Chairman Collins to present the remaining proposed rule changes. Mr. Rayne explained that he would be presenting seven dockets, six of which repeal existing chapters that pertain to manufactured homes, mobile homes, and commercial coaches. He said that these six chapters have been consolidated into one single chapter, which contains no new provisions except for one fee increase.

**Docket No.
07-0301-0502**

Mr. Rayne first discussed **Docket No. 07-0301-0502**, which is a combined chapter rewrite and a fee rule. This new proposed rule is intended to provide a consolidation of the pertinent provisions previously contained within the existing six rule chapters intended for repeal into a single, more user-friendly rule chapter. Mr. Rayne said that if the new chapter rewrite is not approved by the committee, he is requesting that the six chapters intended for repeal also be rejected, so the bureau can retain the existing rules.

Mr. Rayne explained the process of "tagging" manufactured or modular buildings, saying that buildings coming into Idaho need to have a tag to show that they have been inspected at their point of origin and that those inspections meet Idaho requirements. He said that when the tag fee of \$25 was set a number of years ago, it was based on an estimate of potential costs involved. The \$25 fee has proven to be inadequate to cover the costs, and thus the request is to raise the fee to \$100, which is more in line with surrounding states.

MOTION

Rep. Henderson moved to recommend **approval** by the Business Committee of Docket No. 07-0301-0502; **motion carried on voice vote.**

**Docket Nos.
07-0301-0501
07-0302-0501
07-0303-0501
07-0305-0501
07-0306-0501
07-0308-0501**

Mr. Rayne then presented the remaining six dockets, which repeal the existing rules of building safety that have been incorporated into the chapter rewrite. He again explained that there are no changes being made to the provisions in these six dockets, but rather that the provisions are simply being incorporated into the one new chapter proposed by Docket No. 07-0301-0502, which was just recommended for approval by the Business Committee.

MOTION

Rep. Henderson moved to recommend that the Business Committee **approve** Docket Nos. 07-0301-0501, 07-0302-0501, 07-0303-0501, 07-0305-0501, 07-0306-0501, and 07-0308-0501; **motion carried on voice vote.**

Rep. Black asked Mr. Keys to discuss the possible timetable for reworking the rule on low voltage electrical installations, which was rejected at the request of the Division. He asked whether all the interested parties had been notified, and whether any arrangements had been made to work on this matter.

Mr. Keys said that he and others from the Division had met with interested parties in eastern Idaho and told them that the Division's expectation was that they would come forth with their own scheme. One problem, according to Mr. Keys, is that the industry cannot agree amongst themselves, one portion wanting no regulation at all, and one portion wanting maximum regulation. Mr. Keys said that the Division is willing to act as facilitators to help try and find some middle ground on this issue, with the goal of having a proposal ready for the legislature next year.

In response to a question about why this issue raised more concern in eastern Idaho than in other parts of the state, Mr. Keys said that there seem to be more small contractors and fewer large contractors in that area who are working in the telecommunications field. Additionally, there seemed to be some perception that this rule would have an adverse effect on Idaho State University's training programs. Mr. Keys also said that if the parties simply reach an impasse and cannot agree on a proposal, then the electrical board will visit the issue and come up with some proposal.

Bob Corbell commented that there is a safety issue involved, because the telecommunications installers do work with electricity and there have been instances of telecommunications installers sometimes drilling through fire suppression or other existing equipment. If they are not licensed through the electrical bureau, then they will be subject to contractor registration requirements. Mr. Corbell also said that hearings were held all over the state and no objections came forth at that time, but objections did surface only after the period for public testimony and comment had ended.

Rep. Rusche noted that he had received considerable comment from constituents about proposed rules on journeymen and supervision for plumbers, although there are no proposed rules changes for plumbers. **Mr. Keys** explained that the plumbing board had proposed a rule that would not have gone into effect until next year, but public opposition was great enough that the bureau decided to vacate that rule. Mr. Keys said that he presumes the board will attempt to reintroduce some rule again in the future.

ADJOURN:

There being no further business to come before the subcommittee, the meeting was adjourned at 2:40 p.m.

Representative Gary Collins
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 27, 2006

TIME: Upon Adjournment of Caucus Meeting

PLACE: Room 408

MEMBERS: Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED:** Reps. Block, Rydalch, Edmunson, Henderson, Henbest

GUESTS: Shad Priest, Joan Krosch

Meeting was called to order at 9:20 a.m. by Chairman Black. **Rep. Rusche** moved to approve the minutes of the January 23 meeting, with the following correction: the date listed at the top of the minutes should be changed from January 24 to January 23; motion carried on voice vote. **Rep. Collins** moved to approve the minutes of the January 25 Administrative Rules Subcommittee meeting as written; motion carried on voice vote.

RS15355C1 **Shad Priest**, Deputy Director of the Department of Insurance, appeared before the committee to present RS15355C1. Mr. Priest testified that this is a lengthy bill containing a lot of small changes that add up to one important change in the insurance industry. This legislation will regulate self-funded health plans offered by multiple employers, under the same regulatory plan as is used to regulate insurance products.

As background, Mr. Priest explained that self-funded health care plans are traditionally offered by a single employer who takes on the obligation of paying for his employee health benefits out of a fund set up for this purpose. This employee benefit is no different from any other employee benefit, and the employer has the same obligation to pay this benefit as he does to pay salary, pension, and so forth. The proposed legislation does not affect these types of plans. In fact, Idaho cannot regulate self-funded single employer plans; these are regulated instead by the federal Department of Labor.

A multiple employer plan is an arrangement whereby two or more employers get together and jointly fund their employees* health benefits. Mr. Priest said that, in virtually every case, these plans are put together by a third party who approaches employers offering them a "better deal" on health insurance. They are generally targeted to smaller employers. Under the federal ERISA language, they are called Multiple Employer Welfare Arrangements, or MEWAs. In a MEWA plan, the third party collects money from employers, places it into a fund, and generally creates a health plan describing the benefits, coverage, premiums, and so forth. The third party is responsible for paying health benefits.

According to Mr. Priest, in these arrangements the employees almost always assume that they have health insurance, and they lead their lives according to that belief. Their employers, however, have not provided health insurance because the MEWA plans are not regulated, are not subject to the strict requirements in the insurance industry. If these plans fail, the employees don't have the protection of the guarantee association to make up the shortfall in claims payments. The plan is simply gone, and the employee has no coverage.

Mr. Priest further explained that another difference between MEWA plans and single employer self-funded health plans is that the MEWA plans can grow by recruiting more employers to take part. The plans are marketed to employers like insurance, often being offered through association groups. People frequently join associations because of the offering of these "health plans" with less expensive premiums than they are currently paying. The plans may offer unreasonably low premium rates, which leads to problems later when reserves fall short of the necessary amount needed to pay claims. In the meantime, according to Mr. Priest, these MEWA plans are rife with fraud and mismanagement, and the owners often line their own pockets through large salaries and bonuses.

The problems with MEWA plans have become more serious in recent years. Mr. Priest said that the original ERISA law stated that they were not subject to the same regulation as health insurance plans. However, in 1982, Congress amended the federal ERISA law and asked states to also regulate these plans. Now the MEWA plans are subject to both federal and state oversight. Mr. Priest pointed out that one of the problems with these plans is that eventually they work almost like a Ponzi scheme, since they have to recruit more and more employer members in order to keep new money coming into the plan to pay claims. Eventually, these plans fail. Mr. Priest pointed to the legislation's Statement of Purpose for more information about the extent of the losses that have been suffered. For instance, between 2000 and 2002, Americans were left with over a quarter of a billion dollars in unpaid claims from unlicensed entities offering health benefit plans.

Mr. Priest pointed out that many plans are not intended to be shams or fraudulent from the beginning but instead were intended to solve the problem of high health insurance premiums. In the long run, though, the MEWA approach is almost certain to fail, resulting in higher premiums for everyone. Mr. Priest spoke about one Idaho company, EPO Link, that handled employee benefit administration for small companies. At one point they instituted a self-funded health plan, which lasted only one year before becoming insolvent. In this one case, over \$4 million in health claims were left unpaid.

Mr. Priest testified that self-funded employer plans are currently regulated by Idaho Code Chapter 40, Title 41. Prior to ERISA, this code section was aimed toward single employer self-funded plans. But this section of Code doesn't reference multiple employer plans, so most of these plans ignore the Code and simply do not register with the Department of Insurance, even if they are located in Idaho.

Mr. Priest said that this proposed legislation will “fix” the law by removing self-funded health plans from Chapter 40 and instead regulating them like any other insurance company, since they are, in fact, insurance companies. They are marketed and sold in the same way as insurance, they take on risk the same way an insurance company does, they charge premiums just like insurance companies do, and employers and employees both think they are buying insurance policies. In fact, these plans often directly compete with insurers and encourage potential enrollees to drop their insurance and enroll in this type of plan. In virtually every respect, according to Mr. Priest, these multiple employer plans present a risk to the public which is identical to that of insurance companies.

Mr. Priest stated that it is appropriate to amend Chapter 40, making it clear that these companies are not subject to the provisions of Chapter 40 but rather will be handled and regulated just like insurance companies.

In response to questions from the committee, Mr. Priest said that EPO Link is still offering some employee services, but they do not offer health plans. The Department of Insurance got involved with this company when it was attempting to sell the company to a California company for no consideration except a guarantee of employment for its officers. The Department was able to stop this sale; the company will now be sold, but all proceeds will be put into a trust fund to help pay the unpaid claims against the company. Additionally, EPO Link will never offer self-funded plans in Idaho again.

Mr. Priest was asked how many self-funded plans operate in Idaho at the present time. He stated that there is no way to tell, since they normally do not register with the Department. Mr. Priest said there are only one or two who are registered with the Department. He is aware of three others, two of which have approached the Department to become registered, and the other one is in litigation with the Department.

MOTION

Rep. Bilbao moved to introduce RS 15355C1 to **print; motion carried on voice vote.**

Chairman Black announced that the next meeting of the Business Committee will be held on Tuesday, January 31, upon adjournment of the House floor session.

There being no further business to come before the committee, the meeting was adjourned at 9:45 a.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE January 31, 2006

TIME Upon Adjournment of the House

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest (Bock), Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS Woody Richards, Mark Dunham, David Curtis, Angela Richards, Brent Reinke

Meeting was called to order at 1:50 p.m. by Chairman Black. Rep Deal moved to approve the minutes of the January 27 meeting as written; motion carried on voice vote. Mr. Les Bock is substituting for Rep. Henbest in her absence.

RS15349C1 **Dave Curtis**, Executive Director of the Board of Registration of Professional Engineers and Professional Land Surveyors, presented **RS15349C1**. Mr. Curtis explained that under current law, teaching upper division engineering design subjects is considered to be the practice of engineering. Faculty members have three years in which to become licensed after being hired. The proposed legislation in RS15349C1 will extend the number of years from three to five during which a faculty person could teach upper division engineering design courses without being licensed as a professional engineer. This gives the professor an additional two years in which to qualify for tenure and satisfy licensure requirements. The legislation will also allow the Board to waive the requirement for passage of an exam on the fundamentals of engineering for someone who has a doctoral degree.

Responding to a question from the committee about the genesis of this legislation, Mr. Curtis said that legislation was passed in 1986 that gave the universities a two-year period during which they could incorporate the new requirements into their hiring practices. At that time there was some opposition, but over the intervening years, the universities have come to deal with the licensing requirements and now support them. Mr. Curtis said that he recently attended a meeting of the faculty advisory committee of each university and that they all expressed support for lengthening the grace period and also for waiving one of the two eight-hour examinations for persons holding a doctoral degree.

MOTION **Rep. Snodgrass** moved to introduce **RS15349C1** to print; **motion carried on voice vote.**

RS15379 Mr. Curtis then presented **RS15379** to the committee. He explained that under current law, anyone can write a legal description which results in the conveyance of land. If these legal descriptions are prepared by someone

who is not a professional land surveyor, the legal descriptions result in the creation of corners which have not been physically located by placement of a monument. This proposed legislation will require that a professional land surveyor file a Record of Survey with the County Recorder if a survey they perform results in the placement of monuments at corners of record which have not been previously monumented. Mr. Curtis explained the distinction between a "corner" and a "monument", saying that a corner is a theoretical position at the intersection of a boundary, while a monument is an actual physical marking of a corner. Mr. Curtis also reported that the legislation has the support of the Idaho Society of Professional Land Surveyors.

In response to committee questions, Mr. Curtis said that this legislation is not being brought as a result of any specific problem. Rather, an active member of the Idaho Association of Land Surveyors pointed out this gap in the law, and the Idaho Society of Professional Engineers concurred and asked for clarifying legislation.

MOTION

Rep. Black moved to introduce **RS15379** to print; **motion carried on voice vote.**

RS15516

Woody Richards, appearing at the request of the Worker's Comp Exchange, presented **RS15516** to the committee. He explained that reciprocal insurance companies such as the Idaho Reciprocal Insurance Company in Lewiston operate under an agreement that assures payment of claims by assessing member companies whatever amount is necessary regardless of how high those claims are. Mr. Richards said that the Idaho Reciprocal Insurance Company has seven members, one of which is the Potlatch Corporation, which is in the process of restructuring from a "C" Corporation to a Real Estate Investment Trust, or REIT.

Mr. Richards testified that three sections of Idaho Code specifically mention "seven or fewer subscribers" in reference to reciprocal insurance companies. There is some concern that, since there is no definition of "subscriber" in Code, subsidiaries of member companies may be construed to be separate members, thus pushing the membership number above the seven-member threshold. Therefore, Mr. Richards said, this proposed legislation clarifies that a subscriber who is a corporation, limited liability company or other legal entity shall be considered as one subscriber, regardless of the number of its wholly-owned subsidiaries. He stated that this will not change the way a company is regulated, and said that the proposed legislation had been circulated to other insurance companies and he is not aware of any opposition.

MOTION

Rep. Nonini moved to introduce **RS15516** to print; **motion carried on voice vote.**

Brent Reinke, Chairman of the Idaho Criminal Justice Commission, was recognized by Chairman Black to present information on work of the commission. Mr. Reinke noted that most of the representatives on the Business Committee had already had the opportunity to hear his full presentation; therefore, in order not to repeat information, he invited committee members to ask any questions they may still have.

In response to a question about whether or not other states are experiencing any appreciable success with their drug programs, Mr. Reinke said that there are some bright spots, but with regard to methamphetamine use there are not many signs of improvement. He said that as recently as two years ago, when he would attend meetings on the East coast, law enforcement officials were sometimes not even aware of the existence of meth, which started in the western part of the United States and has now migrated across the country. Mr. Reinke said that one thing is clear about meth: incarceration without treatment doesn't work. He sees a real need to tie together the drug courts and treatment programs. Another area of great need is to reach young children with proactive anti-drug problems before they are involved with meth.

Another area of deep concern is the growing presence of gangs in Idaho, with the attendant problems that they bring to the communities in which they exist. Mr. Reinke stated that the only effective way to reduce gang violence and gang problems is to remove the gangs, driving them out of state. The problem is that gangs are being pushed into Idaho from other states, since it has been relatively easy for gangs to establish themselves here.

Asked about what the agenda of gangs is, Mr. Reinke said that most gang members join and continue their membership because they are seeking a type of stability and a sense of belonging, neither of which they may have at home. There seems to be a sense of safety in having a connection with a gang and relying on the other members of one's gang. There is also a tremendous amount of drug trafficking that takes place in gangs, according to Mr. Reinke.

A question was posed about the highly addictive nature of meth, which is reported to be more addictive than heroin and also more quickly addictive and less easily reversed. Mr. Reinke said that meth is 98% addictive after the first use. He said that even adults are becoming meth users, and cited examples such as long-haul truck drivers or night shift workers who may try meth out of a need to stay alert longer. Users such as these may go a month or longer between uses, but eventually they become addicted to the "high" they attain by using meth and they begin using it all the time. Mr. Reinke cited studies that have shown brain damage after just one use of meth, damage which causes personality changes that are difficult to turn around. Mr. Reinke recounted his own difficulties with his son who became addicted to meth. He said that after his son Jeremy stopped methamphetamine use, it took about three years for him to regain his sense of humor and other aspects of his personality, and that he will continue to struggle for the rest of his life.

In response to a question about "meth babies" and the current law that allows the arrest of pregnant women who are using drugs, Mr. Reinke said that this is permissible under Idaho law, and that the Idaho State Police are working diligently to identify expectant mothers who are drug abusers. He also mentioned the rise in meth babies as well as babies with crank addiction and fetal alcohol syndrome. Mr. Reinke opined that the increased use of meth is attributable to a number of factors in our society, including the availability of information on the internet and the lack of supervision of many children after school, since both parents are working full-time.

A question was asked regarding the availability of treatment centers and the

fact that the Governor had recently requested only one new treatment center. Mr. Reinke said that in the future the state is looking at seven centers, one in each section of the state. He noted that there was a comprehensive plan in place a few years ago, but budget constraints placed a hold on that plan.

Mr. Reinke offered to show the entire committee a video which illustrates in greater detail the problems inherent in greater drug use, particularly methamphetamine. Chairman Black said that he and the other committee members would welcome such a presentation, and that he would arrange a time for Mr. Reinke to revisit the Business Committee for that purpose. Mr. Reinke reported that each legislator will be receiving a copy of the DVD at the end of the session and that he can make copies available earlier if necessary. He is also willing to work with the Idaho Department of Education to get the DVD into Idaho schools.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 2:40 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 1, 2006

TIME Upon Adjournment of the House

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest (Bock), Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS Jack Rayne, Steve Keys, Bob Corbell, Cindy Hedge

Meeting was called to order at 1:58 p.m. **Rep. Miller** moved to approve the minutes of the January 31 meeting as written; motion carried on voice vote.

Chairman Black recognized **Mr. Les Bock**, substituting for Rep. Margaret Henbest this week, and apologized for not introducing Mr. Bock at the committee's previous meeting. The Chairman also notified committee members that the Business Committee will hold a meeting on Friday morning following the House session, since there are still quite a number of Rs's waiting to be introduced to print.

RS 15328 **Roger Hales**, an attorney representing the Bureau of Occupational Licensing, presented **RS15328**, which makes changes to the licensing procedures for landscape architects. Mr. Hales said that the changes are designed to provide some flexibility with regard to national examinations, and also to raise the cap on licensure fees as well as on fees for processing the national examination. Mr. Hales noted that passing this legislation will not result in immediate fee increases, but will give the Board authority to raise fees in the future.

MOTION **Rep. Cannon** moved to introduce **RS15328** to print; **motion carried on voice vote.**

RS 15375 **Mr. Hales** then presented **RS15375**, which amends sections of the Code dealing with architects. He explained that this legislation updates parts of the Act to address internet and certain other types of practices that are not dealt with in the old act. He said that the bill will also clarify when an architect can sign and stamp specifications and will identify some conditional definitions. It will clarify that the title "architect" can be used by retired or out-of-state architects, as long as it is not used for the purpose of soliciting business in the state.

MOTION **Rep. Bilbao** moved to introduce **RS15375** to print; **motion carried on voice vote.**

RS 15376 **Mr. Hales** also presented **RS15376**, legislation which deals with mortician

licensing and other matters related to the funeral home industry. According to Mr. Hales, this legislation is designed to clarify some of the requirements for a mortician license and clarify certain requirements for the sale of pre-need funeral goods and services. It eliminates a license requirement that was previously in place and updates recordkeeping requirements for funeral establishments. Mr. Hale said that he would review all proposed changes in greater detail when the bill is before the committee.

Responding to questions from the committee, Mr. Hales said that these changes are coming from the Board of Morticians and they do approve of them. He said that normally in Idaho one needs to be licensed in order to sell funeral goods and services, and this would include selling caskets. If one chooses to make his own casket, however, no license would be required. Mr. Hales also commented on the new language on page 4, lines 22-26 of the RS, stating that this is an attempt to clarify that this act has never been intended to regulate insurance agents but rather only those who sell pre-need service contracts.

MOTION **Rep. Collins** moved to introduce **RS15376** to print; **motion carried on voice vote.**

Chairman Black asked **Rep. Collins to chair the remainder of the meeting.** Rep. Collins read the Rules Subcommittee's report to the full committee, recommending that the committee approve all rules, with the exception of one rule from the Division of Building Safety, Docket No. 07-0104-0502, which is being rejected at the request of the Division of Building Safety. Chairman Black explained that a separate motion would be necessary to approve the rules from each individual agency reviewed by the Business Committee.

MOTION **Rep. Deal** moved to approve the rules of the Board of Accountancy, **Docket No. 01-0101-0501**; **motion carried on voice vote.**

Rep. Collins requested that a separate motion be made to reject the one rule from the Division of Building Safety.

MOTION **Rep. Henderson** moved to **reject Docket No. 07-0104-0502** in the rules of the Division of Building Safety.

There was some discussion following a committee question about whether this docket contained rules dealing with low-voltage installations, a rule that had generated considerable comment from constituents. **Rep. Collins** said that by rejecting this rule, all new provisions dealing with low-voltage wiring will not go into effect. **Chairman Black** explained that the Division of Building Safety is starting over on this issue, and will be trying to reach a consensus on a set of rules that will be acceptable to all interested parties.

VOTE ON MOTION **Rep. Collins** called for a vote on the motion to **reject Docket No. 07-0104-0502**; **motion carried on voice vote.**

MOTION **Rep. Henderson** moved to **approve** all remaining rules submitted by the Division of Building Safety, **Docket Nos. 07-0102-0501; 07-0104-0501; 07-0106-0501; 07-0203-0501; 07-0206-0501; 07-0206-0502; 07-0301-0502; 07-0301-0501; 07-0302-0501; 07-0303-0501; 07-0305-0501; 07-0306-0501;**

07-0308-0501; 07-0501-0501; 07-0701-0501; and 07-0701-0502; motion carried on voice vote.

Steve Keys, Bureau Chief of the Division of Building Safety, was asked to yield in order to answer some questions from committee members. **Rep. Nonini** asked for a clarification on one of the rules, **Docket No. 07-0701-0502**, dealing with HVAC installations. He said that another representative expressed concern that this rule would be overly cumbersome on rural communities. Since there may not be licensed installers in smaller towns, people would have to hire a licensed installer to travel from Boise, which will drive up the costs associated with such installations.

Mr. Keys pointed out that the new rule establishes requirements for a specialty HVAC journeyman “hearth” contractor which will require only one year of experience and passage of a test to qualify for a “hearth” license. Prior to this, the only license available was a full-blown HVAC license, with more stringent requirements and more expensive licensing.

In further discussion and response to committee questions, Mr. Keys stated that the Plumbing Board had set forth a rule removing a requirement for “constant supervision” and that this rule would not have come to the Business Committee until next year. In the interim, enough negative comment was received that the Plumbing Board vacated that rule.

Mr. Keys testified that all proposed rules are publicized and public hearing are held; generally, rules are formulated at Board meetings and notification is given statewide, so when there is a problem the Board generally hears about it in the form of negative comments or queries. He said that, with regard to the current proposed rules, in most cases the Board had not received negative comment. In terms of the three building rules that generated the most negative comment, one of them was vacated, another one is being rejected at the request of the division, and the third is being accepted.

Mr. Keys said that the Division of Building Safety is actively working with the communications industry to schedule meetings in order to get their input on future rules changes. Questioned about the specific concerns of the Idaho State University information technology people, Mr. Keys stated that he personally traveled to Pocatello and met with interested parties, assuring them of what the process will be going forward. Mr. Keys said that, to the best of his knowledge, the parties in the southeastern part of Idaho are satisfied at this point, and he is scheduling future meetings with them to develop acceptable rules.

Dennis Stevenson, Administrative Rules Coordinator, was asked to yield for a clarification on rules. He explained that once a rule is published as a “pending” rule, it must come to a legislative committee for action, but the department can request that the germane committee reject a rule if there is reason to do so. The agency can vacate the rule, however, if it does so prior to the rule reaching the “pending” status; if the rule has been published as a “proposed” rule, it can still be vacated at that point. **Mr. Keys** said that the division had developed three rule dockets relating to master electrician requirements for licensing, and that the public comment period brought forth enough opposition to convince the division to vacate one of those rules at

that point. **Rep. Rydalch** stated that she hopes there is never another bill presented by an agency or an advisor that is characterized as a “general housekeeping bill.”

- MOTION** **Rep. Deal** moved to **approve** the rules submitted by the Board of Professional Engineers and Professional Land Surveyors, **Docket No. 10-0101-0501**; **motion carried on voice vote.**
- MOTION** **Rep. Bilbao** moved to **approve** the rules submitted by the Department of Finance, **Docket Nos. 12-0108-0501** and **12-0110-0501**; **motion carried on voice vote.**
- MOTION** **Rep. Nonini** moved to **approve** the rules of the Department of Insurance, **Docket Nos. 18-0109-0501**; **18-0110-0501**; **18-0118-0501**; **18-0154-0501**; and **18-0173-0501**; **motion carried on voice vote.**
- MOTION** **Rep. Miller** moved to **approve** the rules of the Bureau of Occupational Licenses, **Docket Nos. 24-0101-0501**; **24-0801-0501**; **24-1801-0501**; **24-2101-0501**; and **24-2201-0501**; **motion carried on voice vote.**
- MOTION** **Rep. Snodgrass** moved to **approve** the rules of the Idaho Real Estate Commission, **Docket Nos. 33-0101-0401**; **33-0101-0501**; and **33-0101-0502**; **motion carried on voice vote.**
- ADJOURN** There being no further business to come before the committee, the meeting was adjourned at 2:30 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 3, 2006

TIME Upon Adjournment of the House

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest (Bock), Smith (30), Rusche

**ABSENT/
EXCUSED** Rep. Deal, Rep. Rydalch, Rep. Henderson, Rep. Henbest (Mr. Bock)

GUESTS Bob Corbell, Jack Rayne, John McAllister, Steve Keys, Doug Brown

Meeting was called to order at 8:30 a.m. by Chairman Black. **Rep. Collins** moved to approve the minutes of the February 1 meeting as written. **Rep. Smith** pointed out that in the listing of committee members Mr. Les Bock should be listed as substituting for Rep. Henbest, rather than for Rep. Henderson, as the minutes currently state. **Motion to approve the corrected minutes carried on voice vote.**

RS 15361 **Steve Keys**, Bureau Chief of the Division of Building Safety, appeared before the committee to present **RS15361**, which updates the Code to more accurately reflect the responsibilities of the Administrator of the Division of Building Safety. It contains other changes as well, updating terminology to replace references to the term "director" with "administrator," and removing outdated references to "mobile" homes and "recreational vehicles."

Mr. Keys asked permission to make one change to this RS: on page 4, line 15, following the words "division administrator" insert the words "deputy administrators."

MOTION **Rep. Nonini** moved to **introduce RS15361** to print, after the requested change is made; **motion carried on voice vote.**

RS 15362 **Mr. Keys** presented **RS15362**, explaining that it was formulated in response to industry requests following last year's institution of insurance requirements for electrical contractors. This legislation will allow a holder of a contractor's license who is not currently acting as a contractor in Idaho to renew his license without providing proof of liability insurance and worker's compensation insurance.

Chairman Black said he had received several calls during the summer, pointing out situations where electrical contractors will be on one job as the contractor and then will become an employee of someone else for a different job. During this period of time in which he is an employee of someone else, he should not be required to carry liability insurance.

Responding to questions from the committee, Mr. Keys explained that the

\$150 fee referred to on page 2 is the regular fee for a contractor's license. The contractor who works temporarily as an employee still needs to keep his license current, but this bill will allow him to do so without providing proof of insurance. The \$30 reactivation fee covers the administrative cost of reactivating his contractor status.

Mr. Keys also stated that in order to hold a contractor's license, a person must keep his journeyman license current; this assures that his skills remain updated in the interim. He also said if an electrician is not going to be active at all as an electrician, he can not renew his license and will still have one year to revive it without retesting.

A question was raised about whether this same provision should be considered for plumbers, HVAC and other contractors; Mr. Keys said at this point it applies only to electricians. This is because the insurance requirements that are addressed in this legislation currently do not apply to plumbers and HVAC. Mr. Keys said he is aware of almost 100 electrical contractors who have not renewed their licenses from last year because of this insurance issue.

MOTION **Rep. Snodgrass** moved to **introduce RS15362** to print; **motion carried on voice vote.**

RS 15363 **Mr. Keys** presented **RS15363**, which establishes a staggered system of issuing and renewing licenses. This will allow the Division to better distribute work loads across the calendar year, contributing to more efficient operations. Fees for licensure and registration will not be affected.

MOTION **Rep. Cannon** moved to **introduce RS15363** to print; **motion carried on voice vote.**

MOTION TO RECONSIDER **Rep. Snodgrass** made a motion to **reconsider RS15362**, pointing out that the electrical contractor license fee is listed as \$125 in RS15363, but that the fee is \$150 in RS15362. He asked if this discrepancy could be explained. Further checking revealed that the language in RS15362 reads "not to exceed \$150" and that the current fee is \$125. Rep. Snodgrass **withdrew** the motion.

RS 15364 **Mr. Keys** presented **RS15364**, which established the "Idaho Elevator Safety Fund," a dedicated account for all monies generated by the previously-established elevator inspection program. The money will be set aside and appropriated to carry out the provisions of the Idaho Elevator Safety Code Act. Mr. Keys stated that this provision was missed when the Elevator Safety Act was brought forward.

Responding to questions from the committee, **Mr. Keys** said the funds will be used to fund the elevator inspection program across the state. **Jack Rayne**, Division of Building Safety, said fees for elevator inspections are in the range of \$500 for an initial inspection; inspections are required every five years. **Bob Corbell**, lobbyist, explained that the owner of an elevator pays an annual fee for the registration of the elevator. The fee amounts are sufficient to fund the inspection every fifth year. He said fees vary according to the type of elevator, and said there are many kinds of elevators, including traction, hydraulic, dumb waiters, and so forth. Each elevator has its own

fee, and some inspections take more than one day to complete.

MOTION

Rep. Rusche moved to **introduce RS15364** to print; **motion carried on voice vote.**

RS 15365

Mr. Keys presented **RS15365**, which adjusts the ceiling on fees that the Board may impose by administrative rule for various licensing classes. The Board needs the flexibility to adjust license fees in order to ensure adequate funding is available. The Board also recognizes that the current \$75 cost of a small (Class D) contractor's license should be reduced to encourage more contractors to participate on small public projects. Mr. Keys said this legislation was instigated by the Public Works Contractors Licensing task force and has been endorsed by contractor groups.

A question arose as to whether additional staff was anticipated last year when the new requirements for insurance and registration were put into place. **Rep. Black** noted that, in his memory, the need for additional staff was included, since there would not be sufficient staff to follow up on violations of the new law. A suggestion was made to Mr. Keys that in the future the Bureau should plainly state they are "raising" the ceiling on fees rather than using the ambiguous term "adjusting."

MOTION

Rep. Miller moved to **introduce RS15365** to print; **motion carried on voice vote.**

RS 15366C1

Jack Rayne, Building Bureau Chief of the Division of Building Safety, presented **RS15366C1**, which addresses three areas of the Building Code. First, changes to 39-4107 would reinstate the authority of the building code board to amend building and energy codes. This will give the board the same authority to amend codes as has been given to the electrical, plumbing and HVAC boards, as well as the State Fire Marshal to amend the International Fire Code. Second, it provides clarification and corrections to 39-4109, the International Building Code. Third, it makes further clarifications and removes a date reference in 39-4116.

Mr. Rayne stated that in 2002 a coalition drafted legislation which became House Bill 586, primarily to adopt updated building codes. Later, it was discovered that the "amend" language had been deleted as a result. He also said that other confusing portions have been discovered, and this proposed legislation will clarify those as well. Changes to section 39-4109 will give designers more options in designing renovations of old buildings.

Mr. Rayne also said some opposition to these changes had been voiced by the Idaho Building Contractors Association and the State Independent Living Council. He reported that he has tried to be in touch with the contractors but hasn't been able to talk with them. He did talk with Kelly Buckland, representing the disabled community, who said their fear was that the board may try to amend accessibility standards for the state of Idaho. Mr. Rayne explained that accessibility standards are set by federal guidelines, which pre-empt all state and local laws that might be in conflict.

Responding to committee questions, Mr. Rayne said that any amendments would go through the usual rulemaking process, which means those

amendments would still be reviewed by the Legislature.

MOTION **Rep. Collins** moved to **introduce RS15366C1** to print; **motion carried on voice vote.**

RS 15840 **Bob Corbell**, representing a number of trade associations that will be affected by this proposed legislation, presented **RS15840**. Mr. Corbell discussed the current electrical apprenticeship programs in place at all universities and community colleges, with the exception of the University of Idaho. There are also apprenticeship programs getting started in HVAC and plumbing as well, but only in a couple of institutions. Mr. Corbell said the curricula for electrical and plumbing are national curricula, which means that Idaho-trained people can work in other states as well. He said a clarification is needed to indicate that these programs, and any changes to the curricula, will be approved by the Board. In other words, the Board will be the approving authority for curriculum changes. Since members of the Board work out in the field, they are more qualified to evaluate curriculum changes to make sure they are relevant

In response to committee questions, Mr. Corbell said the goal is to reach uniformity among educational institutions that have the programs in place. If an individual university begins to change its curriculum or add requirements, the Board needs to know about those changes so they can evaluate whether or not the curriculum is still within established guidelines. He also said union apprenticeship programs are not included in the educational institutions; rather, the unions are responsible for teaching their own courses. Asked about coordination between the state department of education and the Board, Mr. Corbell said each of the schools has a contractor oversight committee who works with the school. He also noted that the vocational-technical division of the state Board of Education coordinates with the apprenticeship programs.

MOTION **Rep. Snodgrass** moved to **introduce RS15840** to print; **motion carried on voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 9:30 a.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 7, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Chairman Black, Rep. Block

GUESTS Kevin Keller, Shad Priest, Jim Genetti, Gina McBride, Gavin Gee, Bob Corbell,

Meeting was called to order at 1:35 p.m. by Vice Chairman Collins. **Rep. Miller** moved to approve the minutes of the February 3 meeting as written; **motion carried on voice vote.**

RS 15344C1 **Gavin Gee**, Director of the Department of Finance, appeared before the committee and introduced Mike Larsen, Consumer Finance Bureau Chief, who is available to answer technical questions on the Department's proposed legislation. Mr. Gee presented **RS15344C1**, which amends the Idaho Residential Mortgage Practices Act to definitively establish that engaging in mortgage brokering, mortgage lending, or mortgage loan origination activities in Idaho without a license is a violation of the Act. Mr. Gee stated that legislation was passed several years ago which established licensing for loan originators. Banks, savings and loans, and other thrift institutions are exempt from the requirements, since they meet other stringent regulations through the department. Mr. Gee explained that the recent licensing legislation left out important language authorizing the Department of Finance to take action against those who engage in mortgage brokering, lending, and so forth without a license. This legislation will correct that problem.

MOTION **Rep. Cannon** moved to **introduce RS15344C1** to print; **motion carried on voice vote.**

RS 15445C1 **Mr. Gee** then presented **RS15445C1**, containing amendments to the Idaho Credit Code which governs consumer credit and those who offer consumer credit in Idaho. He said this represents a significant reduction in the regulatory burden under the credit code, because it repeals the notification and licensing requirements for a number of entities. Mr. Gee reported there are about 2,000 small businesses in Idaho who are required to file an annual report and pay a \$14 fee for the ability to charge interest, and the department has received many complaints about this requirement. He said this will result in a reduction in revenue to the Department of Finance, somewhere in the neighborhood of \$230,000, but since the department is

a dedicated fund agency, it will still collect over \$3 million of revenue to fund

its budget. Mr. Gee also reported that this legislation is supported by the industry.

In response to committee questions, Mr. Gee said that title lenders, payday lenders, and any other consumer lenders are still covered because the licensing requirements will remain for those not otherwise regulated. Banks and small businesses are still subject to the law; this will repeal only the notification and filing requirements and the required fee. Mr. Gee said it is the position of the Department that regulated financial institutions, those supervised by the federal government or by state governments, already offer enough protection, by virtue of their existing regulations.

A discussion took place with regard to the burgeoning payday loan business. Mr. Gee said the increase in these businesses is not specific to Idaho but is taking place all over the country, indicating that they are meeting some kind of growing demand in the marketplace. He also said Idaho's Department of Finance regulates this type of business as heavily as any other state, and payday loan businesses take priority in the department's oversight. Mr. Gee reported that other states have taken even more aggressive action in terms of regulating payday loan businesses. Florida, for example, has created a database of everyone in the state that monitors the number of outstanding payday loans. Since Florida law now limits the number of payday loans to two per entity, the database alerts a lender if the person is attempting to borrow for a third time. Mr. Gee also stated that, in terms of numbers of complaints, the department gets very few complaints about payday loan businesses, among the fewest complaints in the industry.

MOTION

Rep. Rydalch moved to **introduce RS15445C1** to print; **motion carried on voice vote.**

RS 15710C1

Mr. Gee presented **RS15710C1**, amendments to the Idaho Residential Mortgage Practices Act. Mr. Gee said this legislation will permit Idaho-licensed mortgage brokers, mortgage lenders, and mortgage loan originators to readily convert to a uniform nationwide mortgage licensing system when such a system is approved and adopted for implementation, pursuant to a national uniform mortgage licensing project. He reported that this nationwide licensing system will be similar to the one used by the securities industry. In that system, states worked with the National Association of Securities Dealers (NASD) to create an efficient and uniform nationwide licensing program and a database for enforcement purposes. Mr. Gee said the new system for the mortgage industry is being developed but is not finalized yet. Thus, this legislation is an authorization for Idaho to participate in the system when it becomes available. Since the nationwide system will require uniform renewal dates, this also gives the department the authority to waive renewal dates in order to adapt to the new renewal date required by the new system.

Responding to questions, Mr. Gee said that he anticipates the system will go into effect, at least on a trial basis in some states, in about 90 to 120 days. The nationwide system will hopefully be in place within the next year. He said that he anticipates no change in the fees that Idaho charges; although there will be a participation fee, he hopes to keep that fee minimal. In any case, the national system is beneficial because mortgage brokers can file one uniform application and send it to selected states in which he wishes to be licensed. The entire procedure is automated and online, which reduces

costs and reduces the licensee's regulatory burden in trying to meet the patchwork of state laws currently in place.

In further discussion, Mr. Gee explained that members of the Board are chosen with a view toward establishing representation from different geographic areas as well as from large, medium and small companies in the industry. He also said the fees for participating in the nationwide system will not come to the Department of Finance but instead will go to the NASD, who is the vendor for this project. Fees will support the cost of running the system. Responding to a question about the director's role in determining an applicant's eligibility, Mr. Gee said the department is simply asking for the same authority in this industry that they already have with every other licensing statute. Applicants can always challenge a department decision by going through an administrative challenge and then a court challenge if necessary.

MOTION **Rep. Rusche** moved to **introduce RS15710C1** to print; **motion carried on voice vote.**

RS 15353C2 **Shad Priest**, Deputy Director of the Department of Insurance, presented **RS15353C2** to the committee. This legislation adds a new section to the insurance code that sets out in one place a person's right to a hearing in the case of a license suspension or revocation. Mr. Priest stated there is currently room for confusion as to when the right to a hearing arises. This will establish clear guidelines in the code.

MOTION **Rep. Cannon** moved to **introduce RS15353C2** to print; **motion carried on voice vote.**

RS 15354 **Mr. Priest** then presented **RS15354**, which extends the deadline for renewing an insurance administrator registration to coincide with the date the registration expires. Current law requires that the application for renewal must be received November 1, even though the registration does not expire until December 31. This has resulted in confusion and frequent late renewals. Mr. Priest said that, in addition to extending the deadline, the proposed legislation sets out penalties for late renewals and requires a new application for registration if the renewal is more than one month late. The license renewal will also be changed from an annual renewal to biennial. Mr. Priest stated that the \$80 renewal fee will remain constant, thus representing a reduction in the annual amount paid for registration. If a change to the fee is deemed necessary, that change would be implemented through the administrative rules process.

MOTION **Rep. Smith** moved to **introduce RS15354** to print; **motion carried on voice vote.**

RS 15938 **Roy Eiguren**, representing Western Surety Corporation, appeared before the committee to present **RS15938**. Mr. Eiguren asked the committee to hold this RS, since some concerns have surfaced about it. Mr. Eiguren explained that this RS was the result of work done during the interim with Bob Corbell, Rep. Black, Sen. Goedde and others. This RS would make uniform the bonding and insurance requirements for all trades required to be licensed under Idaho law, including electrical, plumbing, HVAC, and LP gas dealers.

In response to committee questions, Mr. Eiguren said that the average cost to obtain the required \$10,000 bond is between \$50 and \$100. He said that all the trades involved are on board with this legislation. **Bob Corbell** affirmed this, noting that the legislation will actually result in a reduction in cost for some trades. Mr. Eiguren said that the requirement is also extended to journeymen because it was the opinion of the trade representatives and the licensing entities that they should be included.

A point was made that perhaps this requirement would create the illusion that a consumer is protected by the full \$10,000 bond amount, but in fact he may be entitled to only a share of this amount if there are other parties to the action on a single job. Mr. Eiguren was also asked to return to the committee with some specific underwriting information. A further point was made that LP gas dealers should not be exempted or removed from this bonding requirement, since they do act as contractors when installing a gas line up to a house. Mr. Eiguren stated that he would hold any further comments until he has an opportunity to meet with Rep. Black and all other interested parties.

MOTION **Rep. Deal** moved to **HOLD RS15938** for one week, to allow for further study.
Motion carried on voice vote.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:35 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 9, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** None.

GUESTS Roger Hales, Gary Van Hees, John Mackey, Julie Taylor, Brad Dixon, Jim Overholser, Richard Lenon, Tom Brown, Bob Corbell, Pamela Love, Bill Roden, Kyle Durham, W.E. Myers, Lyn Darrington

Meeting was called to order by Chairman Black at 1:35 p.m. **Rep. Henderson** moved to **approve** the minutes of the February 7 meeting as written; **motion carried on voice vote.**

RS 15978C1 **Rep. Nonini** presented **RS15978C1**, which will provide terms for reimbursement of claims to motor vehicle dealers under a manufacturer incentive program, and will provide a time frame for submission of such claims. Rep. Nonini said that legislation will level the playing field between automobile dealers and manufacturers.

MOTION **Rep. Block** moved to **introduce RS15978C1** to print; **motion carried on voice vote.**

RS 15505 **Rep. Jaquet** presented **RS15505**. She said this legislation provides for homeowner's associations to establish a capital reserve fund in which to deposit the assessments collected from homeowners for future payments of long-term capital projects. Rep. Jaquet explained that there have been instances where these assessments have not been properly held and the funds are not available for major maintenance or improvement projects, thus causing huge assessments to be made to the homeowners in order to pay for these projects.

MOTION **Rep. Smith** moved to **introduce RS15505** to print; **motion carried on voice vote.**

RS 15845C1 **Rep. Paul Shepherd** presented **RS15845C1**, which provides for a new classification for plumbers, a residential plumbing journeyman license. Rep. Shepherd said the current plumbing license covers all plumbers, both residential and commercial. This proposed legislation is intended to separate the licenses so that one may obtain a residential journeyman plumbing license that will allow him to perform residential plumbing work. He explained that the current 8,000 hours of required apprenticeship is overly burdensome for someone who already knows how to perform plumbing and who may want to begin work as a residential plumber after retirement. The

candidate for such a license will still be required to take a test to show proficiency.

MOTION **Rep. Rydalch** moved to introduce **RS15845C1** to print; motion carried on voice vote.

RS 15570 **Brad Dixon**, representing Enterprise Rent-A-Car, presented **RS15570**, which concerns the practice of charging consumers vehicle licensing, title and registration fees as part of the rental price when they rent an automobile in Idaho. The legislation specifies that the practice of including vehicle licensing, title and registration fees as a portion of the rental price is legal under current law. However, the legislation includes limitations upon the amount of fees that a rental company may charge to a consumer for licensing, title and registration costs. Mr. Dixon also said the legislation requires disclosure of these fees as line items on the rental agreement and requires disclosure in any advertisements containing a per-day price on car rentals. Mr. Dixon said it also requires a relationship between the fees and the actual cost being charged to the consumer; in other words, charges for these fees should not be a profit center for the rental companies. Responding to a question, Mr. Dixon said there are about 12 states currently implementing similar legislation.

MOTION **Rep. Bilbao** moved to introduce **RS15570** to print; motion carried on voice vote.

RS 15692 **Rep. Henbest** presented **RS15692**, which will amend sections of Idaho Code to require insurance coverage for medically necessary care for children born with cleft lip or cleft palate. She explained that until recently the funds from the Children's Health Program, a \$1 million federal block grant, were available to all children whether insured or uninsured. Rep. Henbest testified that the demands on this program have now exceeded the resources available, and the rules have been rewritten as of October 2005 to exclude children who are insured. She said even children who are covered by insurance that contractually excludes coverage for cleft lip and cleft palate do not qualify for financial assistance from the program.

MOTION **Rep. Block** moved to introduce **RS15692** to print.

Responding to questions from the committee, Rep. Henbest said she does not know whether this coverage will be offered as an optional add-on to health insurance policies. She said there were 124 children in the state of Idaho in 2004 who needed treatment but were underinsured because the condition was not covered under their insurance policies. She also said the exclusion of these conditions is not a new development, since the Department of Insurance has for quite some time allowed policies to be written that exclude some congenital diseases. **Rep. Rusche** offered an observation that the children with these conditions were precisely those for whom the block grant was intended, and in fact they were being helped with those funds until last year when the program began excluding children with insurance coverage.

VOTE ON MOTION **Chairman Black** called for a vote on the motion to introduce **RS15692**; motion carried on voice vote.

RS 15737C2

Roger Hales presented **RS15737C2**, which contains clarifications to the Liquefied Gas Petroleum Safety Act passed last year. He said this legislation will clarify the jurisdiction of the Liquefied Petroleum Gas Safety Board as governing the setting of outdoor LPG storage tanks and the installation of outdoor LPG lines from the tank to the second stage regulator. It also eliminates the requirement of an additional license for a small LPG dispensing facility if its tank is 4,000 gallons or less. Small operators, for example, are dispensing facilities of propane at an RV park or a U-Haul store. These facilities will still need to be licensed, and during the licensing procedure their operation is inspected to make sure the facility meets requirements of the national code.

Gary Van Hees yielded to answer a question concerning the cost of fees for the two different categories. Mr. Van Hees testified that a large storage facility license is \$200 per year, while a dispenser license is \$50 per year.

MOTION

Rep. Rusche moved to **introduce RS15737C2** to print; **motion carried on voice vote.**

RS 15762

Rep. McGeachin presented **RS15762**, stating that this proposed legislation provides an exemption from the electrical contractor licensing requirement for low energy systems. She explained that one of the consequences of last year's House Bill 139 was to remove the exemption for low-energy installers, and at the time she did not understand that the bill would change the way an entire industry would operate. She said that during rulemaking last fall, some in the industry began to realize what an impact H 139 would have on them. Interested parties in southeast Idaho formed the Teledata Task Force, with members from computer companies, telephone companies, Eastern Idaho Technical College, Idaho State University, the Ririe and Bonneville School Districts, and others. Rep. McGeachin said this task force estimates the financial impact to the industry will be over \$70 million. She testified that the legislation does not repeal H 139, but instead inserts new language to provide an exemption to people in the low-voltage field. She said that printing this and considering it as a bill will give these people an opportunity to testify and discuss whether or not they should be regulated.

Responding to a question about the estimated \$70 million impact, Rep. McGeachin said this figure was arrived at by estimating the costs of implementing the new rules. The figure includes \$8 million in installation and inspection fees; \$20 million to meet the training required by the rules; \$25 million in lost productivity, and \$3 million in administrative burden. **Jim Overholser**, owner of PC Plus in Idaho Falls, yielded to answer further questions about the source of this financial information. Mr. Overholser said the figures are very rough estimates, based upon the costs associated with approximately 500,000 installations per year. He said he thought these were conservative figures.

MOTION

Rep. Rydalch moved to **introduce RS15762** to print.

**SUBSTITUTE
MOTION**

Rep. Deal offered a **substitute motion to return RS15762 to the sponsor.** In support of his substitute motion, Rep. Deal said he thinks licensing is necessary for the low-voltage specialty. Beyond that, however, he noted that the administrative rules which were promulgated for this class of business were not approved this year by the committee. Rep. Deal said he

understands that an agreement had been reached between the electrical board and the Division that they would get together with interested parties and try to come to an agreement. He said if this effort at achieving some resolution of differences does not succeed, then legislation can be considered next year. In the meantime, the low voltage people are not under regulation, since the rules were rejected.

Rep. Henderson commented that he was the person who made the motion to reject the rules, and he did so following a recommendation from the Division of Building Safety that the rule be rejected. At that subcommittee meeting, the Division said they would be meeting with all affected parties and would return next year, which he said sounded like a cooperative effort on the part of the board and the industry.

Rep. Cannon said he thinks an important part of letting the process work is to print this as a bill and give it a full discussion. This will give the committee an opportunity to hear arguments on both sides.

Rep. Rydalch said there has been no bill passed during her tenure in the Legislature that has generated more static than H 139. It is her position that the people involved were not heard prior to passage of H 139, and that they should have their day in court.

Rep. Henbest asked for a clarification on the status of low-voltage installers in light of the rule's rejection. **Rep. Henderson** responded by saying that the rule rejection means there is no rule regulating them, and they will be operating just as they have been in previous years. Rep. Henbest then commented that this does, in fact, allow a year in which to renegotiate and work out any problems, without having any impact on people's livelihoods.

Bob Corbell, representing the independent electrical and HVAC contractors, was asked to yield in order to restate the testimony from the Division at the subcommittee meeting dealing with its rules. Mr. Corbell said he understood the Division had already met with ISU officials and had resolved their problem. He said the Division testified they had held meetings throughout the state to gather input about the proposed rules. He also understands the Division has agreements from the industry to sit down and work out exemptions if necessary.

Rep. Black said he understands that an equal number of electricians are in favor of the new rules as are opposed to them, and that the primary objections seem to be coming from southeastern Idaho. **Mr. Corbell** confirmed that there had been a 50-50 response between those who want regulations and those who don't. He said there are some prominent communications installers who are in support of the legislation and who, in fact, have criticized it for not being strong enough. Mr. Corbell said it would be far preferable to work out the differences without legislation, since hearing such a bill would require the capacity of the Gold Room.

Rep. Rydalch asked whether that was, indeed, the point; in other words, why do we not want to hear from the opposition on this matter. She said there is a legitimate difference of opinion in the area of high voltage versus low voltage requirements. Chairman Black said it is not his intention to allow

the committee to serve as judges in a dog fight, and that it is far better if the industry can come up with a resolution to their differences.

Rep. McGeachin testified that she believes H 139 represents a change of policy, and she would appreciate the opportunity to vote up or down on that change of policy, whether the Business Committee agrees to regulate the industry or not.

**ROLL CALL
VOTE**

Chairman Black called for a vote on the **substitute motion** to return RS15762 to sponsor. A roll call vote was requested and taken. **Voting in favor of the substitute motion:** Reps. Collins, Deal, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Henbest, Smith, Rusche, Black. **Voting against the substitute motion:** Reps. Block, Rydalch, Cannon. **Substitute motion carried on a vote of 12 ayes, 3 nays.**

RS 15803

Rep. Chadderdon presented **RS15803**, which will clarify who possesses the authority to remove a body once it has been buried. The legislation establishes that only such person who has the highest authority in regards to the burial, as specified in 54-1142, Idaho Code, has the right to initiate and authorize disinterment. This section appears in the section of Code dealing with vital statistics. Rep. Chadderdon gave some brief background about this legislation, relating that it stems from attempted disinterment of Richard Butler in north Idaho. She said the legislation is also necessary to clarify the disinterment authority when it is called into question in cases of remarriage. Rep. Chadderdon said the Idaho Funeral Directors, the Idaho State Board of Morticians, and the Bureau of Occupational Licenses are supporting this legislation.

MOTION

Rep. Rusche moved to **introduce RS15803** to print; **motion carried on voice vote.**

RS 15847

John Mackey, representing United Heritage Financial Services, presented **RS15847** to the committee. He testified this will allow Idaho domestic insurance companies to treat goodwill as an admitted asset, which they are currently not allowed to do. Mr. Mackey stated that Idaho is one of only six states who expressly deny "goodwill" to be counted as an asset, and this legislation will remove a major obstacle to business growth. He said the Department of Insurance is aware of the legislation, and he knows of no opposition to it.

MOTION

Rep. Collins moved to **introduce RS15847** to print; **motion carried on voice vote.**

RS 15928

Bill Roden, representing the Idaho State Independent Auto Dealers, presented **RS15928**, saying it represents an enforcement mechanism for the requirement that a dealer is required to show proof of minimum insurance coverage and proof of financial responsibility. This legislation will make the showing of that proof a part of the application process. It does not create any new requirements, but rather closes a loophole. Mr. Roden said this had been reviewed by the casualty insurance industry, by Idaho Department of Transportation, and by the Idaho Automobile Dealers Association, and there are no objections to the legislation.

- MOTION** **Rep. Nonini** moved to **introduce RS15928** to print; **motion carried on voice vote.**
- RS 15984** **Lyn Darrington**, representing Regence BlueShield of Idaho, presented **RS15984**, noting that Regence has been working with the Department of Insurance on this legislation for the past two years. The proposed legislation will allow insurance companies to discontinue obsolete products while continuing to guarantee coverage to members through new and existing product lines, thereby enabling health insurers to better respond to market needs. Ms. Darrington said the legislation is HIPAA-compliant and similar legislation has been enacted in 44 other states. She said she is not aware of any opposition.
- MOTION** **Rep. Edmunson** moved to **introduce RS15984** to print; **motion carried on voice vote.**
- H 446** **John Mackey**, United Heritage Financial Services, presented **H446** to the committee. This will allow domestic insurance companies to pay a commission or “placement fee” in conjunction with the issuance of debt instruments, or surplus notes. They are currently prohibited by statute from doing so. Mr. Mackey explained that the issuance of surplus notes allows Idaho companies to grow their businesses, and this prohibition is contrary to current business practices. This legislation will level the playing field with other states for Idaho’s domestic insurers. Mr. Mackey said he is unaware of any opposition to this, and the Department of Insurance is aware of the legislation.
- Responding to a question from the committee, Mr. Mackey said these commissions will be simply one more cost of doing business, and they will likely be passed on to policyholders.
- MOTION** **Rep. Miller** moved to send **H446** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** Rep. Rusche will sponsor the bill on the floor.
- Chairman Black** requested that a motion be made to **HOLD H449** to a time certain, at the request of the bill’s sponsor, John Mackey.
- MOTION** **Rep. Collins** moved to **HOLD H449** in committee to a time certain, until the next regular Business Committee meeting on Monday, February 13. **Motion carried on voice vote.**
- H 447** **Mr. Mackey** presented **H447**, which will allow insurance companies to make commercial loans at an eighty percent (80%) loan-to-value ratio. Idaho domestic insurers are currently at a disadvantage because they are allowed to make commercial loans only on a seventy-five percent (75%) basis. Mr. Mackey said this legislation will bring commercial loan-to-value ratios in line with residential loan-to-value ratios. He stated that the Department of Insurance is aware of the legislation, and he is aware of no opposition.
- MOTION** **Rep. Snodgrass** moved to send **H447** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** Rep. Snodgrass will sponsor the bill on the floor.

H 448

Mr. Mackey then presented **H448** to the committee. This will allow domestic insurance companies to invest more freely in foreign securities. Currently, they can do so only if they are authorized to transact business in the foreign country. Mr. Mackey said the legislation will have no fiscal impact to the state, and he is aware of no opposition.

Mr. Jack Winderl, Chief Operations Officer and Chief Investment Officer for United Heritage Financial Services, responded to a question about determining risk-based capital. Mr. Winderl said there is an organization within the National Association of Insurance Commissioners (NAIC) that values all securities, whether foreign or domestic, and they determine the amount of capital required to support a particular investment. **Mr. Mackey** responded to a question about whether this legislation has been reviewed by the Department of Finance, saying he assumes it would go through the Department of Insurance but not the Department of Finance.

MOTION

Rep. Rusche moved to send **H448** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. Rep. Rusche will sponsor the bill on the floor.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 2:55 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 13, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS John Mackey, Bob Corbell, David Curtis, Shad Priest

Meeting was called to order at 1:35 p.m. by Chairman Black. **Rep. Miller** moved to approve the minutes of February 9 as written; **motion carried on voice vote.**

RS 15938 **Chairman Black** told the committee that **RS 15939**, which was held for one week at the committee's February 7 meeting, needs to be returned to its sponsor, Roy Eiguren.

MOTION **Rep. Deal** moved to **return RS15938 to sponsor; motion carried on voice vote.**

H 449 **Chairman Black** then stated that **H449**, which was held to a time certain until today's meeting, will be held in committee at the request of the sponsor, John Mackey, United Heritage Financial Services.

MOTION **Rep. Collins** moved to **HOLD H449** in committee, at the request of the sponsor; **motion carried on voice vote.**

H 520 **Dave Curtis**, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **H 520**, which changes the licensing requirements of college professors who teach upper division engineering courses. This legislation extends from three years to five years the time a professor can teach without being licensed as a professional engineer. It also waives the requirement for the first of two eight-hour tests, on the fundamentals of engineering, if the professor holds a doctoral degree. Mr. Curtis stated the Engineering Advisory Councils of the University of Idaho, Idaho State University, Boise State University and Brigham Young University-Idaho are all supportive of the legislation, and he knows of no opposition.

Responding to committee questions, Mr. Curtis explained the regulation applies to all categories of engineers, since Idaho does not license engineers by separate disciplines. He said the extension in time is being sought in order to recognize that professors are often under pressure during their first three years to publish in professional journals and perform other

activities that result in gaining tenure. The five-year time period will allow them to concentrate on research, teaching, and publishing and will give some breathing room in getting licensed. He also stated Idaho is one of only about six states that include teaching in the definition of the “practice of engineering.” For this reason, engineering schools often have difficulty hiring faculty because they are not willing to meet the additional requirement of being licensed as a professional engineer. Mr. Curtis said increasing the grace period before requiring a license will take some pressure off this hiring dilemma.

MOTION

Rep. Rusche moved to send **H 520** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

H 521

Mr. Curtis also presented **H 521**. He explained that under current law, anyone can write a legal description which results in the conveyance of land. If these legal descriptions are prepared by someone who is not a professional land surveyor, the legal descriptions result in the creation of corners which have not been physically located by placement of a monument. This proposed legislation will require that a professional land surveyor file a Record of Survey with the County Recorder if a survey they perform results in the placement of monuments at corners of record which have not been previously monumented. Mr. Curtis explained the distinction between a “corner” and a “monument”, saying that a corner is a theoretical position at the intersection of a boundary, while a monument is an actual physical marking of a corner. Mr. Curtis also reported the legislation has the support of the Idaho Society of Professional Land Surveyors and that there is no known opposition.

Responding to a committee question, Mr. Curtis said this legislation will not result in undue additional costs to customers, explaining that most work is done by computer and therefore the record of survey filing is not a burdensome addition to a surveyor’s work. He noted the filing fee is \$5.00.

MOTION

Rep. Edmunson moved to send **H 521** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Edmunson** will sponsor the bill on the floor.

H 585

Shad Priest, Department of Insurance, presented **H 585**, testifying that this legislation sets forth in one spot a person’s or a company’s right to a hearing when the department seeks to suspend or revoke a license. He explained the sections being deleted from current Code are being relocated in a different section of Code, consolidating all relevant sections together. The new Code section sets out in detail how the department has to proceed if it wants to deny a license application, impose a penalty or revoke or deny a license. Mr. Priest stated the issue has come up because it wasn’t clear at what point the right to a hearing arises. For instance, if a person has been convicted of a felony, the application is denied. The question in this instance is, does the person have a right to a hearing before or after the denial? In order to clear up this and other questions, the new Code section was drafted. The new section states that the right to an appeal hearing exists only after the denial of an initial application. It also specifies that, in the case of an existing license, the Department must give notice that they intend to

take action and must set forth the reason for the action. If the licensee desires a hearing, he must make a request within 21 days of this notification.

MOTION

Rep. Collins moved to send **H 585** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Collins** will sponsor the bill on the floor.

H 586

Mr. Priest then presented **H 586**, which makes amendments to the Idaho Code that deals with third party administrators. Specifically, the legislation changes the deadline for renewing an insurance administrator registration to coincide with the date the registration expires. Mr. Priest testified that currently the application must be received November 1 even though the registration does not expire until December 31, which has been confusing. The bill also changes the licensing period from annual to biennial, which makes this licensing procedure consistent with insurance producers' licensing.

Responding to committee questions, Mr. Priest said the \$80 license fee will remain constant; therefore, the cost of a license will be \$40 per year, or \$80 for the two-year licensing period. Mr. Priest also pointed out that if licensees wait until after January 31 to renew a license, they will have to reapply and complete the entire licensing procedure again.

MOTION

Rep. Deal moved to send **H 586** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Snodgrass** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:10 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 15, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Chairman Black

GUESTS Steve Keys, Division of Building Safety; Bob Corbell, HVAC-IEC Association; Tom Brown, Idaho Electrical Board; Paul White, Electrical Contractor; Marc Bernsen, IBEW #291; Jerry Peterson, Idaho Building Trades; David Bennion, Idaho Public Works Contractor Licensing Board; John McAllister, Division of Building Safety

Meeting was called to order at 1:32 p.m. by Vice Chairman Collins, in the absence of Chairman Black. **Rep. Henderson** moved to approve the minutes of February 13 as written; **motion carried on voice vote.**

H 548 **Steve Keys**, Deputy Director of the Division of Building Safety, presented **H 548**. Mr. Keys said this legislation is being proposed in response to industry requests following last year's passage of insurance requirements for electrical contractors. It will allow a contractor to be in an "inactive" status and then reactivate his license without showing proof of liability or worker's compensation insurance during the inactive period. Mr. Keys testified that a ceiling of \$150 is imposed on an inactive license renewal, and that currently the fees are \$125 for a new or revived license and \$100 for renewal of a contractor's license. A \$30 processing fee is imposed to convert an inactive license to active status. Mr. Keys also said he knows of no opposition to this bill.

Responding to questions, Mr. Keys said the Board is not necessarily notified if a contractor's insurance lapses, since there is no requirement that insurance companies have to notify the Board of lapsed policies. In any case, the lack of insurance would be caught at renewal time. He also testified that the \$30 processing fee applies only when moving from active to inactive status. **Rep. Deal** offered a clarification on the question of notification for lapsed policies, saying that insurance companies routinely provide a certificate of insurance not only to the contractor but also to the licensing agency, and that they are also supposed to provide a notice of cancellation if the policy lapses.

MOTION **Rep. Bilbao** made a motion to send **H 548** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Bilbao** will sponsor the bill on the floor.

H 549 **Mr. Keys** then presented **H 549**, which directs the Electrical Board to

promulgate rules allowing for a staggered system of issuing and renewing licenses. The current law allows for staggered renewals of journeyman licenses only. The staggered system applied to all electrical licensing will better distribute work loads across the calendar year. Mr. Keys testified that license and registration fees will not be affected by this legislation. He said he is not aware of any opposition to this legislation.

MOTION

Rep. Chadderdon made a motion to send **H 549** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rydalch** asked to be recorded as voting no. **Rep. Chadderdon** will sponsor the bill on the floor.

H 550

Mr. Keys presented **H 550**, which establishes the Idaho Elevator Safety Fund. This fund will be a dedicated account for all monies generated by the previously-established elevator inspection program and will provide funds to carry out the provisions of the Idaho Elevator Safety Code Act. Mr. Keys pointed out that he is providing a copy of the fee schedules for new elevator installations and the annual certificate to operate, as well as forms used by inspectors and facility owners. (See Attachment 1.) Mr. Keys noted there are currently 1,087 elevators registered in the state.

MOTION

Rep. Snodgrass made a motion to send **H 550** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Snodgrass** will sponsor the bill on the floor.

H 551

Mr. Keys presented **H 551**, which raises the ceiling on most fees that the Board may impose by administrative rule for various license classes. Mr. Keys said that, given recent changes in Chapter 19 and projected increase in staffing costs, the Board needs the flexibility to adjust license fees to ensure adequate funding. In the case of small contractors' licenses (Class D), the Board recognized that the current \$75 cost should be reduced in order to encourage more small contractors to work on small public works projects. Mr. Keys said that because of the higher fees, the Board does anticipate some shrinkage in its revenues. He also noted that the Chairman of the Public Works Contractors Licensing Board, Mr. David Bennion, was present to answer questions if necessary.

Responding to questions from the committee, Mr. Keys said the licensing fee is higher than the \$30 reactivation fee discussed earlier because issuance of a public works license involves a considerable amount of work, including evaluating financial statements, checking backgrounds, and performing other administrative tasks. Mr. Keys also said the Board does administer an examination for public works contractors, although the exam is not very demanding at this point. He stated the Board is formulating a more comprehensive examination to be used in the future, and also said there is no examination required for renewal of a license once a contractor is licensed.

David Bennion, Chairman of the Public Works Contractors Licensing Board, also responded to committee questions. He gave some background to this legislation, saying that it grew out of an interim task force that has been studying contractor licensing as well as other issues related to all contractor laws in the state of Idaho. Mr. Bennion said there were some provisions of the old Code that were simply not enforceable, and the task force aimed at

tightening the regulations and making them meaningful. He also said support for improved contractor laws comes from major governmental entities, industry groups, the contractor community and the Associated General Contractors. Mr. Bennion said that in the past the licensing board heard a number of complaints but they had no authority and insufficient resources to pursue the complaints. The major thrust of the task force has been to put a quality focus on the contracting process in the areas of licensing criteria and the education of contractors as well as public entities. Mr. Bennion said 10,000 educational packets have been distributed and education sessions have been held. All of these cost money, and the Board needs to increase its fees in order to fund these increased operational costs.

Mr. Keys responded to a question about the anticipated potential shrinkage in the number of license holders as a result of higher fees. He said the Bureau recognizes that the bigger the increase is, the more shrinkage will take place. He was asked whether perhaps they would reach a point of diminishing returns, and responded that the Board does not intend to impose the maximum fees at this time and thinks the maximum shrinkage might be as high as 15%. Mr. Bennion testified the fee ceiling was an issue discussed by the contracting community and it was not arrived at by the staff or the Board. He said the public has indicated a desire for more meaningful licensing requirements, and this necessitates additional enforcement and education of contractors. Mr. Bennion stated there have been major changes during the past few years in what's happening in the public works contracting field in this state, and the higher fees are justified at this time.

A question was raised about whether or not the industry is really supportive of these changes or is just agreeing to them because of pressure from the Board. Mr. Bennion testified that the Associated General Contractors has been involved in this process and they voted to support the legislation. He also stated that Nevada's lowest categories of licensing fees are higher than Idaho's highest categories, indicating that Idaho's fee structure is outdated and needs to be changed. Mr. Bennion said he does not have exact figures on license fees from surrounding states, but he is willing to bring that information back to the committee. Mr. Bennion was asked which Business Committee member served on the task force, and he responded that Chairman Black and Rep. Cannon were members, as well as former committee member Lee Gagner. Sen. Andreason also served on the task force.

MOTION

Rep. Smith made a motion to **HOLD H 551 to a time certain**, to February 23, in order to allow the Division of Building Safety to provide the committee with further information about licensing fees from surrounding states and states of similar size to Idaho. **Motion carried on voice vote.** The bill will be reconsidered on February 23.

H 554

Mr. Keys presented **H 554**, which updates Code to more accurately reflect the responsibilities of the Administrator of the Division of Building Safety and recognizes the existence of "deputy administrators." The bill also removes references to "director" and replaces them with the proper title of "administrator." Finally, the bill removes references to "mobile homes" and "recreational vehicles," both of which terms are outdated.

MOTION

Rep. Miller made a motion to send **H 554** to the floor with a **DO PASS**

recommendation; **motion carried on voice vote.** **Rep. Miller** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:20 p.m.

Representative Gary Collins
Vice Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 21, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Reps. Block, Nonini

GUESTS Steve Keys, Bob Corbell, Robert Hall, Nichole Browning, Jessica Buch, Gavin Gee, David Bennion, Michael Gifford, Joe Kunz, Ken Harward, Mike Brassey, Pat Sullivan

Meeting was called to order at 2:20 p.m. by Chairman Black. **Rep. Miller** moved to approve the minutes of February 15 as written; **motion carried on voice vote.**

H 642 **Chairman Black** reported that **Rep. Jaquet**, sponsor of **H 642**, has requested the Committee hold this bill at the present time. He said the parties involved in developing this legislation think there are still some difficulties with the bill and would prefer that it be held until such time as those differences can be resolved.

MOTION **Rep. Snodgrass** moved to **HOLD H 642** in committee; **motion carried on voice vote.**

Rep. Deal asked if he could make an announcement and was allowed to do so. Rep. Deal reminded the members that the reception sponsored by the Independent Insurance Agents of Idaho will be held this evening, February 21, from 5:00 to 6:30 p.m. in the Crystal Ballroom

H 584 **Gavin Gee**, Director of the Department of Finance, presented **H 584** and noted that Mike Larsen, Bureau Chief, was also present to answer questions if necessary. Mr. Gee said H 584 provides a technical correction to the Idaho Residential Mortgage Practices Act to definitively establish that engaging in mortgage brokering, mortgage lending, or mortgage loan origination activities in Idaho without a license is a violation of the Act. Mr. Gee stated that legislation was passed several years ago which established licensing for loan originators. Banks, savings and loans, and other thrift institutions are exempt from the requirements, since they meet other stringent regulations through the department. Mr. Gee explained that the recent licensing legislation left out important language authorizing the Department of Finance to take action against those who engage in mortgage brokering, lending, and so forth without a license. This legislation will correct that problem.

Asked to clarify who is exempt from this legislation, Mr. Gee stated the

exemptions apply to already-regulated financial institutions such as state and national banks, thrift organizations, and credit unions. These are exempt because they are already heavily regulated by other financial services regulators.

Robert Hall, representing the Idaho Association of Mortgage Brokers, testified **in favor of H 584**, stating that his organization is in favor of the legislation.

MOTION **Rep. Collins** moved to send **H 584** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Collins** will sponsor the bill on the floor.

H 587 **Mr. Gee** then presented **H 587**, containing amendments to the Idaho Credit Code which governs consumer credit and those who offer consumer credit in Idaho. He said this represents a significant reduction in the regulatory burden under the credit code. First, it repeals outdated notification and licensing requirements for over 2,000 small businesses who are essentially regulated by the Attorney General's office. The same relief will be afforded regulated lenders who already pay significant fees to their primary regulators. Mr. Gee noted that all the consumer protection provisions will still apply to these entities; it is only the filing and reporting requirements that are lifted. Second, the legislation replaces outdated or inequitable tax burdens for consumer finance companies, payday and title lenders. Their fee structure will be changed to the more traditional system of license fees, renewal fees, and examination fees. Third, the legislation addresses the disadvantage placed on state-chartered institutions so that anyone who is already regulated by another financial services regulator will be exempt from the same provisions. Mr. Gee reported that this legislation is supported by the industry.

Responding to a question from the committee, Mr. Gee said that, although state consumer protection regulations vary widely, lending agencies are still subject to strict federal laws because of their participation in the FDIC system.

MOTION **Rep. Rusche** moved to send **H 587** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rusche** will sponsor the bill on the floor.

H 551 **Steve Keys**, Deputy Director of the Division of Building Safety, addressed the committee concerning **H 551**, which was considered last week and was held until Mr. Keys could return with further information on licensing fees from surrounding states. Mr. Keys offered to answer any further questions the committee may have, and he noted the presence of **David Bennion**, Chairman of the Public Works Contracting Task Force, **Michael Gifford**, Associated General Contractors, and **Ken Harward**, Association of Idaho Cities, who are also willing to respond to questions.

David Bennion was recognized to address the committee. He distributed copies of two documents: a brochure entitled "Procurement and Public Works Contracting" and a list of the task force members whose work resulted in this legislation. Mr. Bennion said he thinks the brochure is a good example of the cooperation that took place among all stakeholders, noting

that the licensing board and the bureau worked together to prepare the brochure, which has been distributed to all licensed contractors, to counties and to other officials.

Mr. Bennion offered some historical perspective, saying that at the AGC's summer 2003 meeting some contractors expressed grave concerns about the public works licensing system. This led to a meeting with the Governor and the formation of a task force to study the entire issue. The task force was made up of representatives from the licensing board, the Division of Building Safety, the contracting community and public works. After meeting for nine months, the task force developed three major areas of focus. First, they decided an educational component was needed to educate all those involved in public works projects so they would understand their obligations and roles. Second, they wanted to develop and clarify existing violations and strengthen the licensing board so it could enforce the penalties for those violations. Third, they wanted to clarify and expand the procurement process, developing a uniform public works contractor code, a bidding code, and a procurement code for all public entities. Mr. Bennion said a key part of this process was the existence of a subcommittee that sorted out the funding and staffing requirements to make all this happen.

Mr. Bennion further testified that it is difficult to compare Idaho to surrounding states on the matter of licensing fees. He said in all other states the contractor registration licensing law covers all contractors, while in Idaho we have two sets of regulations, one specific to public works and the other a simple contractor registration law. He noted other differences among states, saying that Washington, for example, charges \$110 for a license regardless of size, but that all their public works highway projects are run through their Transportation Department in an independent process. Mr. Bennion said the Idaho Transportation Department was represented on the task force, and that department calculated that it would require five additional full-time engineers to administer the same kind of independent licensing program.

Michael Gifford, Executive Secretary of the Associated General Contractors of Idaho, was recognized to speak to the committee. Mr. Gifford said the AGC represents 980 contractors; members include commercial contractors who build Idaho's highways, commercial buildings, and other public works projects. He said one of the problems in the public works arena is the frustration felt by licensed contractors when they see unlicensed contractors on a job site and have no way to report this or resolve the situation. A further problem exists when jobs are put out for bid by cities, counties, sewer or highway districts but are not done according to the rules. Again, the only remedy has been to go to civil court and try to get some action against the violating parties. Mr. Gifford testified that H 551 will provide the fee increases necessary to fund the programs developed by the task force, which will be run on a break-even basis. He said this is not an exact science, since there is no way of knowing exactly how many contractors will be licensed. He stated that the Associated General Contractors is in support of the legislation, which is one of their top two legislative priorities for the year.

Ken Harward, Executive Director of the Association of Idaho Cities, was recognized to address the committee. Mr. Harward reminded them that last year's House Bill 263 consolidated some 30 different sections of Code into

one uniform section dealing with purchasing. Previously the Code addressed purchasing in different sections for cities, counties, highway districts and other entities. Mr. Harward also said that, although Idaho has had public works licensing for about 60 years, there have not been adequate enforcement mechanisms to impose significant penalties against those who violate the law. He said numerous educational workshops had been sponsored by the AGC and the Association of Idaho Cities in an effort to get people fully informed about their obligations. Mr. Harward said the task force decided the best long-term solution to existing problems would be to strengthen the Public Works Licensing Board's authority to ensure that contractors who work on public works projects will be the best qualified to do the work. According to Mr. Harward, H 551 will provide the funding to strengthen training and to provide staffing, database preparation and other necessary functions.

In response to questions from the committee, **Mr. Bennion** explained that last year JFAC suggested the agency should spend down \$600,000 of its reserve funds, and then bring new legislation this year to increase its revenues by raising licensing fees. He said the maximum fees proposed in H 551 are caps, and fees will most likely not be raised to the limit at this time. He also noted that no fees can be raised until at least July of 2007, since the agency has to develop rules to implement H 551 and then bring those rules to the Legislature next year for approval.

Rep. Cannon stated his opposition to **H 551**, noting that in the instance of an unlicensed contractor working on a construction project, the question seems to be who is really responsible for this situation. Is it the contractor, or is it the owner or some other party? **Mr. Bennion** responded that until H 263 was passed, there was no strong enforcement mechanism; the only action available was to go to a county court. In some instances, local elected officials felt they had authority to do what they thought was in the best interest of their constituencies. As a result, bids were awarded that sometimes resulted in buildings that were certainly not in anyone's best interest but rather were an embarrassment.

Mr. Bennion responded to further questions by saying that he recognizes the unfairness of the same fee for contractors who are licensed to do \$3 million projects and those who are licensed to do \$25 million projects. He stated the classification system needs to be changed and perhaps should have been changed this year. He anticipates that this will be addressed in the near future.

Mr. Keys responded to a question about whether there are any surrounding states in which it is easier to obtain a public works license than it is in Idaho. He said there is no public works license in these other states. Rather, they have contractor registration or licensing programs that cover both public and private contractors. Mr. Keys said Montana and Wyoming are relatively easy and unstructured, while Washington and Oregon are somewhat more restrictive. California and Utah require a much more extensive examination program to qualify contractors. Mr. Keys said in Nevada the educational requirement is so strict that often a party will pay to attend an exam preparation school, spending two days in class and then sitting for a one-day test. Mr. Keys said a good number of applicants do not pass the examination on their first attempt.

A further question arose as to how a \$500 license fee can be justified when the licensing board is simply reviewing an application with a person's name, address, references, and other simple information. **Chairman Black** pointed out that the \$500 figure is a maximum amount and that the actual fee will be formulated based on the experience of administering the law. He noted that the Legislature needs to regularly raise these caps as costs rise. Chairman Black also said the fee is not covering just the review of a simple application, but rather provides funding for administration of possible investigation and enforcement procedures when violations take place. **Mr. Keys** agreed that if the license fee was paying only for the actual licensing cost, the proposed caps would be too high. He pointed out that the task force identified outreach, education, and enforcement functions that need to be put into place, and license fees have to fund these additional measures.

Rep. Henderson offered comments in support of **H 551**. He said that, as a former mayor and county commissioner, he can testify from personal experience how necessary this legislation is. He offered two examples of public works projects in Post Falls that resulted in higher costs and other difficulties because of incompetent contractors. He said this bill requires a prequalification procedure which will assure that cities and counties are spending their money wisely. **Rep. Deal** related further examples from his experience that illustrate the need for stronger licensing for public works contractors. He also mentioned that his small independent insurance office pays over \$700 every two years for required licenses, and his business does not have the type of exposure that contractors have. **Rep. Henderson** stated, in support of the bill, that this law will protect smaller competent contractors as much as it protects the government.

MOTION

Rep. Deal moved to send **H 551** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Chairman Black** will sponsor the bill on the floor.

Chairman Black introduced the committee's new Page, **Michael Kelsey**, from Burley. The Chairman noted that Michael has already launched his political career by being elected to the office of Lieutenant Governor at last summer's Boys' State.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:15 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 23, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS Gary Van Hees, Kevin Keller, Rayola Jacobsen, Roger Hales, Mark Benson

Meeting was called to order at 2:20 p.m. by Chairman Black. **Rep. Collins** moved to approve the minutes of February 21 as written; **motion carried on voice vote.**

Chairman Black recognized **Tim Olson**, Regence Blue Shield, for providing prize money for last year's walking program, in which legislators competed to see who could record the most steps taken during a six-week period. Chairman Black won \$250 by placing seventh in the contest and he donated the prize money to Jefferson Elementary School in Boise. Chairman Black welcomed **Doreen Fouts**, physical education instructor from Jefferson Elementary School, who used his \$250 donation to purchase "stacking cups" to use in her classes. Ms. Fouts brought several students to demonstrate the "stacking cups." This exercise improves hand-eye coordination, ambidexterity, speed and agility. Ms. Fouts explained that she is writing a grant proposal to obtain additional sets of stacking cups and timing mats.

H 433 **Hugh O'Riordan**, representing the Petroleum Clean Water Act Trust Fund, presented **H 433**. He explained that trustees who serve on the board receive a \$50 stipend per meeting and this \$50 payment is currently considered to be compensation. This legislation will amend the Idaho Petroleum Clean Water Trust Fund Act to provide that the \$50 payment to members of the board is an honorarium, thus allowing their individual retirement accounts to remain qualified under federal pension and tax laws. The change will be retroactive to the creation of the Board in 2003.

MOTION **Rep. Rusche** moved to send **H 433** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Nonini** will sponsor the bill on the floor.

H 522 **Woody Richards**, representing the Workers Compensation Exchange, presented **H 522**. Mr. Richards explained that reciprocal insurance companies such as the Idaho Reciprocal Insurance Company in Lewiston operate under an agreement that assures payment of claims by assessing member companies whatever amount is necessary regardless of how high those claims are. Mr. Richards said that the Idaho Reciprocal Insurance Company has seven members, one of whom is the Potlatch Corporation,

which is in the process of restructuring from a “C” Corporation to a Real Estate Investment Trust, or REIT. Mr. Richards recognized the presence of **Mark Benson**, Potlatch Corporation, who is familiar with the organizational changes in his company that have necessitated this legislation.

Mr. Richards testified that three sections of Idaho Code specifically mention “seven or fewer subscribers” in reference to reciprocal insurance companies. There is some concern that, since there is no definition of “subscriber” in Code, subsidiaries of member companies may be construed to be separate members, thus pushing the membership number above the seven-member threshold. Therefore, Mr. Richards said, this proposed legislation clarifies that a subscriber who is a corporation, limited liability company or other legal entity shall be considered as one subscriber, regardless of the number of its wholly-owned subsidiaries. He stated this will not change the way a company is regulated, and noted that the Department of Insurance is aware of the legislation and has no objection to it. He said the proposed legislation had been circulated to other insurance companies and he is not aware of any opposition.

MOTION

Rep. Rusche moved to send **H 522** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

H 645

Roger Hales, representing the Board of Liquefied petroleum Gas, presented **H 645**, proposed by the LPG board and the Bureau of Occupational Licenses. This bill clarifies two sections of the Idaho Liquefied Petroleum Gas Public Safety Act, approved in 2005. First, it will eliminate any confusion about the board's jurisdiction in governing the setting of outdoor LPG storage tanks and the installation of outdoor LPG lines from the tank to the second stage regulator. Second, the bill will eliminate the requirement of an additional license for small dispensing facilities with storage tank capacity of 4,000 gallons or less. Mr. Hales gave as examples of these small facilities the tanks at U-Haul centers, Flying J, or other rental facilities where people fill their five-gallon tanks for gas barbeque grills.

Responding to committee questions, Mr. Hales said that there has been no opposition from the LPG industry. He stated that the “exchange cages” at outlets such as Albertson’s, where a consumer brings in an empty tank and purchases a full tank, are exempt from the licensing requirement. He said the proposed legislation was advertised on the board’s website and letters were sent out to all licensees informing them of the issues involved. Mr. Hales pointed out that this is just a clarification and not a change in the law. **Gary Van Hees**, Chairman of the Idaho Propane Gas Safety Board, was recognized to answer a question about a farmer purchasing propane from a co-op; he said that such a farmer will not be affected by this legislation.

MOTION

Rep. Cannon moved to send **H 645** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Cannon** will sponsor the bill on the floor.

H 538

Roger Hales, representing the Board of Landscape Architects, presented **H 538**. He explained that this bill changes examination procedures and times to coordinate with the national examination utilized by the board. It also increases the processing fee for the examination to reflect the actual

cost involved, which includes providing a proctor. Finally, it raises the cap for annual licensing and renewal fees, which will allow the board to increase fees in the future if necessary.

MOTION

Rep. Miller moved to send **H 538** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Miller** will sponsor the bill on the floor.

H 539

Mr. Hales then presented **H 539**, from the Board of Architects. He said this legislation will update obsolete terminology and will modernize the architect licensing procedure and bring it into compliance with trends in the industry. Mr. Hales also explained that the board is adopting certain requirements about who can seal plans or drawings, noting that the plans or drawings need to be prepared by an architect or by someone under his "responsible control." He explained what is meant by "prototypical" buildings, which are buildings such as a McDonald's restaurant for which plans are drawn by the parent company. The bill allows for these plans to be sent to Idaho and then be stamped by an Idaho architect. Finally, the bill creates an exemption that will allow retired architects to continue using the title of "architect" as long as it is not used with the intent of obtaining work in Idaho.

In response to committee questions, Mr. Hales said the board will have the authority to determine whether someone is under the "responsible control" of an architect. This may include supervising work that is being developed or communicated via e-mail or other methods. In the case of one-man architectural offices who are found not to have "responsible control," the architect has the right to an appeal process before a district judge. Mr. Hales said this legislation is not being brought to respond to any particular problem at the present time; rather, the board simply thought it was time for an overall update.

MOTION

Rep. Cannon moved to send **H 539** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Cannon** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:30 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE February 27, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Reps. Block, Henderson, and Nonini

GUESTS W. Myers, Rex Green, Bobby Peterson, Kyle Durham, Bill Roden, Denise Brennan, Ken McClure, Jeremy Pisca

Meeting was called to order at 2:15 p.m. by Chairman Black. **Rep. Rusche** moved to approve the minutes of February 23 as written; **motion carried on voice vote.**

H 653 **Bill Roden**, representing the Idaho State Independent Automobile Dealers, presented **H 653**, which deals with the minimum insurance required to be carried by a licensed automobile dealer. Mr. Roden testified that most dealers carry liability insurance on their autos to cover them against damages done during test drives by potential purchasers. This bill requires a licensed dealer, at the time of filing an application for licensure or renewal, to file a copy of his certificate of insurance showing the minimum coverage required by the state of Idaho. Mr. Roden stated that the bill does not require insurance companies to take any action, should the coverage lapse. He said the legislation had been discussed with State Farm, Farmers Insurance, and other companies, and he is not aware of any opposition.

MOTION **Rep. Deal** moved to send **H 653** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Nonini** will sponsor the bill on the floor.

S 1256 **Dale Higer**, appearing on behalf of the Commission on Uniform State Laws, presented **S 1256**. Mr. Higer said this legislation, if adopted, will revise and update the current Uniform Limited Partnership Act of 2001. He said limited partnerships are now used primarily in two ways: for estate planning arrangements, and for highly sophisticated, manager-controlled limited partnerships. Mr. Higer also said similar legislation was introduced last year in the Idaho Senate, but the Secretary of State expressed some concerns at that time. He said minor changes were made that made the bill acceptable to the Secretary of State as well as the Bar Association. A resolution was circulated among bar association members, garnering 94% approval for the legislation, which has also been endorsed by the American Bar Association.

In response to questions, Mr. Higer said that a limited liability partnership is a subset of limited partnerships, and therefore limited liability partnerships

would also be governed by this legislation. He also said a business operating under a limited liability partnership concept would need to make a new filing with the Secretary of State. Mr. Higer said he is not aware of any opposition to S 1256.

MOTION

Rep. Deal moved to send **S 1256** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Deal** will sponsor the bill on the floor.

H 654

Denise Brennan, Executive Director of the Idaho Automobile Dealers Association, presented **H 654**, dealing with manufacturers' incentive programs. Ms. Brennan testified that H 654 will level the playing field between auto dealers and manufacturers by providing terms for the reimbursement of incentive programs. It provides that dealers will be reimbursed within 30 business days of filing an incentive claim; dealers will have the same amount of time to submit an incentive claim (one year) as the manufacturers have to audit a claim (one year). She stated that this legislation applies mostly to a situation in which a dealer finds a clerical error within the year after the sale of a vehicle. Ms. Brennan said this legislation is modeled after that in the state of Washington, and she stated further that two states have passed legislation like this.

Responding to committee questions, Ms. Brennan said her group opted for one year rather than 90 days because one manufacturer, Ford/Lincoln/Mercury, already allows for a one-year time frame, and they didn't want to take that away from them. She recognized that dealerships have private contracts with manufacturers, but she said this issue is not always addressed specifically within the franchise agreement. She also stressed that often rebate programs are complicated, with overlapping time frames, and dealers may catch an omission of an incentive claim some months after the sale of the vehicle.

In response to further questions, Ms. Brennan stated there is no particular problem at the present time with regard to this matter, but her group is trying to add a layer of protection for the dealers. She said very few incentive program regulations are actually legislated, and most of them are just a matter of policy, whether written or unwritten.

Ken McClure, representing General Motors Corporation, testified in **opposition to H 654**. He said he and others have been trying to work out compromise language with Ms. Brennan's group, but that effort has been unsuccessful. Mr. McClure said one year to make a claim in a special incentive program is a long time for the manufacturers to deal with. For instance, General Motors closes its books so that anything received by them after 90 days from the sale date of a vehicle must be manually handled. Mr. McClure said he does not want to oppose the legislation entirely, but he does think the time frame needs to be reduced from one year to a more reasonable length of time. Mr. McClure also pointed out that the provisions of the bill, as written, will supercede the terms of contracts between dealers and manufacturers. For instance, on page 1, line 27, the language means that the one-year provision overrides any contract provisions, and the 90-day contract would no longer be valid.

Jeremy Pisca, representing the Alliance of Automobile Manufacturers,

testified **in opposition to H 654**. Mr. Pisca said the Alliance is a trade association representing nine manufacturers: BMW, Daimler/Chrysler, Ford, General Motors, Mazda, Mitsubishi, Porsche, Toyota, and Volkswagen. He also testified that he has been working with Ms. Brennan to try and resolve differences in the bill, but the sticking point has been the time frame for submitting claims. Mr. Pisca said he had investigated similar arrangements in many other states, including Utah, Nevada, Oregon, California, Colorado, Texas, Alabama, Arkansas, Kansas, Oklahoma and others, and has concluded that only two, Washington and Massachusetts, govern the time frame during which claims can be submitted. He asked the committee to amend the bill to change the one-year time frame to a ninety-day time frame; otherwise, he requested that the bill be held in committee.

MOTION

Rep. Rydalch moved to **HOLD H 654 to a time certain**, in order to give the parties time to work out a possible amendment to the bill.

SUBSTITUTE MOTION

Rep. Cannon made a **substitute motion to HOLD H 654 in committee**.

Further discussion took place regarding possible amendments to H 654. **Ms. Brennan** stated that her dealers are not willing to reduce the time frame from one year to 90 days, because they feel strongly that it would not be fair to take away the one-year provision that Ford already has in place. If the bill is defeated, she said her members would prefer that to making a concession on the one-year time limit.

Committee members debated whether it would be wise to pass legislation to address a problem that does not yet exist. **Mr. McClure** restated his position that he does not want to see the bill die, but it seems that the differences are not going to be resolved.

VOTE ON SUBSTITUTE MOTION

Chairman Black called for a **vote on the substitute motion to HOLD H 654 in committee**. A voice vote was indecisive, and a roll call vote was taken. The **substitute motion passed** on a roll call vote with **7 ayes** and **6 nays**. **Voting aye**: Reps. Collins, Cannon, Snodgrass, Edmunson, Miller, Henbest, and Smith. **Voting nay**: Reps. Deal, Rydalch, Bilbao, Chadderdon, Rusche, and Chairman Black.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:10 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 1, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS John Mackey, Jack Windrel, Mike Larson, Nichole Browning, Lynnea Olsen, Donna Jones, Kimberly Coster, Steve Tobiason, Julie Taylor

Meeting was called to order at 1:35 p.m. by Chairman Black. **Rep. Miller** moved to approve the minutes of February 27 as written; **motion carried on voice vote.**

H 714 **Mike Larsen**, Consumer Finance Bureau Chief of the Department of Finance, presented **H 714**, which will allow the department to transition into a nationwide licensing system. Mr. Larsen said a group of industry representatives and state regulators have been working for about a year to develop a system in which a person can apply for and renew licenses in one central location, rather than individually in each of the separate states. He also said industry representatives have proposed an amendment to some of the bill's language, and the department is in agreement with the change.

Lynnea Olsen, representing Citigroup, presented a proposed **amendment to H 714**. Ms. Olsen said Citigroup worked with the Department of Finance on the wording of the amendment, and it is consistent with the department's intention to convert to a uniform nationwide licensing system without removing exemptions for certain individuals. She explained that the amendment language will cross-reference all exemptions in current law, rather than singling out one specific exemption.

In response to a committee question, Ms. Olsen stated that exempted persons include attorneys, trust companies, and federal or state regulated lenders, including affiliates and subsidiaries of banks and wholly-owned companies of banks.

Mr. Larsen introduced **Nichole Browning**, representing the Idaho Association of Mortgage Brokers, who stated that her organization **supports H 714** with the proposed amendment.

MOTION **Rep. Deal** moved to send **H 714** to **General Orders** with committee amendments attached; **Rep. Rusche** seconded the motion. **Motion carried on voice vote.** **Rep. Deal** will sponsor the bill on the floor

H 646 **Rep. Chadderdon** presented **H 646**, which clarifies who possesses the

authority to remove or disinter a body once it is buried. The bill establishes that only such person who has the highest authority in regards to the burial, as specified in 54-1142, Idaho Code, has the right to initiate and authorize disinterment. Rep. Chadderdon explained that 54-1142 deals with who has authority in the absence of prearranged funeral plans. She also said the bill was brought in response to a request from the morticians, who want to clear up any discrepancy about who can bury and who can later disinter a body.

MOTION **Rep. Collins** moved to send **H 646** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Chadderdon** will sponsor the bill on the floor.

H 652 **John Mackey**, United Heritage Financial Services, Inc., presented **H 652**. This bill will allow intangible assets of Idaho-domiciled insurance companies to be treated as admitted assets. Mr. Mackey said the current law is contrary to uniform accounting practices for insurance companies and has become an obstacle when Idaho companies want to merge with or acquire other insurance companies. He said Idaho is one of only six states that disallow goodwill as an admitted asset. Mr. Mackey also reported that H 652 has the support of the Department of Insurance.

MOTION **Rep. Collins** moved to send **H 652** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** Rep. Collins will sponsor the bill on the floor.

H 722 **Mr. Mackey** then presented **H 722**, also on behalf of United Heritage Financial Services, Inc. He explained that this bill will allow Idaho licensed life, property and casualty companies and licensed insurance producers to give gifts to clients or potential customers if the gift has an aggregate value of \$50 or less. Currently, Idaho Code does not allow a gift in any amount to be given, even though the common practice is to give calendars, pens, and other items to customers. Mr. Mackey said H 722 will bring Idaho Code into alignment with current industry practice. He reported that the Department of Insurance is aware of the legislation, and that there is no fiscal impact to the general fund.

MOTION **Rep. Rusche** moved to send **H 722** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Nonini** will sponsor the bill on the floor.

S 1360 **Donna Jones**, Executive Director of the Idaho Real Estate Commission, presented **S 1360** and passed out packets of information relative to the bill. Ms. Jones testified that the bill corrects inconsistencies and provides clarification to existing code. She explained that current law requires all state agencies to obtain an applicant's social security number before issuing him or her a professional or occupational license. The Real Estate Commission has determined that it is not necessary for licensees to use their social security number for identification when registering for continuing education credits; therefore, they will be allowed to use their license numbers instead. Ms. Jones said the legislation has been advertised on the commission's website, and the Idaho Association of Realtors approves of the proposed changes.

MOTION **Rep. Snodgrass** moved to send **S 1360** to the floor with a **DO PASS**

recommendation; **motion carried on voice vote.** Rep. Snodgrass will sponsor the bill on the floor.

H 655

Lyn Darrington, representing Regence Blue Shield of Idaho, presented **H 655**. Ms. Darrington said Regence Blue Shield has been in business for about 60 years and currently has approximately 180,000 members enrolled in large group, small group, and individual policies. Ms. Darrington testified that H 655 will allow health insurance companies to discontinue obsolete or closed products and will require them to allow enrollees in those products to move to any open products being offered on the market. She said that to date, 44 other states have enacted laws or rules to allow health insurers the ability to discontinue products. She stated the goal of this legislation is product simplification, and said some products in the market today have only a handful of people enrolled. This is an administrative burden for the company, since there are costs and reporting requirements associated with each separate product, regardless of the number of people enrolled. Ms. Darrington said allowing companies to eliminate obsolete or closed products will streamline operations and will allow the companies to make market-driven decisions based on what customers want and can afford.

Ms. Darrington reviewed the three primary components of the legislation: notification of discontinuation, guaranteed renewability language, and uniformity language. She pointed out the specific pages and lines where each of these components is addressed in the legislation. Ms. Darrington then addressed specific concerns that had been expressed about H 655, including protection of guaranteed renewability, possible cherry-picking by out-of-state insurers, the implications for the high-risk pool, and possible limitation on choice of products. She testified that the protection of guaranteed renewability is federal law and is protected by specific language in the bill. Cherry-picking is not a major concern because of existing Idaho law that says if a carrier leaves the Idaho market under these conditions it will be prohibited from re-entering the market for five years. This language is also included in the bill. There will not be a problem of multiple insureds being "dumped" into the high-risk pool because discontinuation will take place only at renewal date, and people renew throughout the calendar year. Thus there will never be a large influx of individuals going into the high-risk pool. Finally, in addressing the question of limiting choices of products, Ms. Darrington said if Regence were to discontinue all seven of its closed products, the company would still be offering 20 products (each with numerous options), eight Health Savings Account products and four HRP plans, for a total of 32 choices from just one insurer.

Ms. Darrington also pointed out that additional protections have been built into H 655, namely: 1) a carrier must offer a product continuously for 36 months before it can be considered for discontinuation, and 2) no more than 20% of a carrier's total membership can be enrolled in products that will be discontinued in a calendar year. She said these additional protections, or "sideboards," are beyond what other states have in place.

Julie Taylor, representing Blue Cross of Idaho, testified **in opposition to H 655**. She noted that, although she has not actively lobbied members about the bill, Blue Cross does have some concerns about how it will affect consumers. They think that allowing discontinuation of 20% of a company's total enrollees may cause a huge disruption in the marketplace. Ms. Taylor

also noted that a company could eliminate a product that is unprofitable or undesirable and then set pricing so an individual might think the high-risk pool is the most desirable option. She discussed the old health care products that had rich pharmacy benefits, and said if these products were eliminated, the insured may look to the high risk pool for coverage. In the case of Blue Cross, the company spends \$84,000 per year for the Blue Cross enrollee with the highest pharmaceutical costs, and it spends a total of \$1.9 million per year. In response to a committee question, Ms. Taylor said they have products that are not marketed any more but are still open products, which can be purchased by anyone.

Steve Tobiason, representing the Idaho Association of Health Underwriters, testified **in favor of H 655**, saying the organization has reviewed the legislation and they support the bill as drafted. In response to committee questions, Mr. Tobiason said the Association did take into consideration the fact that Idaho will be including additional protections over and above those passed by 45 other states. He also noted that if there were going to be problems with similar legislation that has been enacted in those 45 other states, it probably would have become apparent by now, but so far no problems have surfaced.

MOTION

Rep. Deal moved to send **H 655** to the floor with a **DO PASS** recommendation. In support of his motion, Rep. Deal pointed out that 45 other states have passed similar legislation, and that the sponsor of the bill did attempt to meet some objections before printing the final version. He said it seems unreasonable to him that a company would present a bill like this and then dump a large percentage of its business on the marketplace. Rep. Deal said this seems like reasonable legislation, even having additional sideboards that other states do not have, such as the 20% cap.

VOTE ON MOTION

Chairman Black called for a vote on the motion to send H 655 to the floor with a DO PASS recommendation; **motion carried on voice vote. Chairman Black and Rep. Deal** will co-sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:40 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 7, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Chairman Black

GUESTS George Dillard, Millie Hill Herbold, E.B. Scholes, Jr., Peggy Foster, Rhett Fornof, Brad Dixon, Paul Jackson, Lyn Darrington, Skip Smyser

Meeting was called to order at 1:35 p.m. by Vice Chairman Collins, in the absence of Chairman Black. **Rep. Rusche** moved to approve the minutes of March 1 as written; **motion carried on voice vote.**

HCR 55 **Rep. Collins** presented **HCR 55**, a concurrent resolution rejecting certain rules from the Division of Building Safety. Rep. Collins explained that the rules being rejected are those dealing with low-voltage electrical installations. During the Administrative Rules Review process earlier in the session, the Division requested that this particular rule be rejected.

MOTION **Rep. Rusche** moved to send **HCR 55** to the floor with a **DO PASS** recommendation; motion carried on voice vote. **Rep. Collins** will sponsor the resolution on the floor.

H 643 **Brad Dixon**, an attorney representing Enterprise Rent-A-Car, presented **H 643**, dealing with the practice of rental car companies charging vehicle licensing, title and registration fees to their customers. Mr. Dixon explained that the legislation has four elements. First, it will specify that it is legal for rental companies to collect the vehicle licensing, title and registration fees (VLF). Second, it will require that the VLF must be separately stated and identified within rental agreements. Third, it also specifies that the VLF must be limited to the average annual licensing, title and registration costs paid by the rental company, prorated at 1/365th per rental day. Finally, it states that any advertised rental rate within the state of Idaho must include disclosure that a VLF may be charged.

Mr. Dixon said eleven states have already passed similar legislation, including Arizona, Nevada and Wyoming, and 16 other states are considering such legislation. He said Enterprise supports the legislation because Idaho state law is not clear that passing along VLF charges to the customer is legal, and the Attorney General has been unwilling to issue an opinion in the matter. He also stated that, if the practice is going to be legal, consumers need to know about the fees in advertising and in rental contracts, and there must be a limitation on the amount that can be charged. Mr. Dixon also said Enterprise does not currently pass these charges along

to its customers because it is not sure of the legality of the practice.

Responding to questions from the committee, Mr. Dixon said the basic problem that H 643 wants to address is the issue of adequate notice. It is Enterprise's position that other rental car companies are representing the VLF fees as cost recovery, when in fact the fees represent a profit center for those companies. He noted that, in checking with various car rental firms, he found VLF fees ranging from \$1.10 per day down to 35 cents per day, indicating that, for some companies, VLF represents more than just cost recovery.

Rhett Fornof, Enterprise Rent-A-Car, was recognized to answer further questions about Enterprise Rent-A-Car and its practices. Mr. Fornof testified that passing along 1/365th of the VLF fees would not recover the company's actual expenses, but that the proposed legislation would at least level the playing field among all car rental firms. He also stated that if Enterprise were to charge \$1.10 per day in VLF, the company would make a quarter million dollars in profit each year. Mr. Fornof said Enterprise wants an industry-wide standard to deal with the VLF fees.

Mr. Dixon answered additional questions regarding the proposed legislation. He said there is not currently a problem with this issue in Idaho, and he does not know of consumer complaints at this time. The issue is a problem, however, in other parts of the country. He stated that Enterprise simply wants to clarify whether it is permissible and legal to pass along VLF fees to the customer. He noted that the matter of disclosure of fees is not the most important part of the legislation; rather, Enterprise's principal concern is that VLF fees are being represented as "cost recovery" when, in fact, they are actually a profit center for the companies. Mr. Dixon addressed the question of legality by saying that he finds no basis in Idaho Code to allow charging VLF fees through to the consumer. Enterprise is concerned because recently the Montana Attorney General's office has called upon the state's consumer protection laws to order rental car companies to stop charging VLF fees. Since the consumer protection laws have somewhat broad descriptions about what's legal and what isn't, Mr. Dixon said the same application could be made in Idaho regarding VLF fees. Enterprise is simply trying to be proactive and avoid the problem by making the law clear about what is and is not allowed.

Further questions were asked about whether support for the legislation is coming from the car rental industry or whether Enterprise is alone in proposing this bill. **Mr. Fornof** responded by restating there is a wide range of charges from one company to another, and some companies are passing along VLF fees that are more than recovery of costs. Mr. Fornof also testified that no rental cars are rented out all 365 days of the year, and thus passing along 1/365th of the VLF fees will not recover the company's entire costs. Mr. Fornof stated that each car rental company charges the same VLF fee on every car rental contract, regardless of the actual cost of these fees for each particular vehicle. He also said car rentals at airport locations are higher because of the 10% access fee that is added, and he also clarified that rental car rates are location-specific. Finally, he testified that Enterprise is simply attempting to clear up what exactly the additional charges are in a rental car's price, and trying to set up a system that will be fair and consistent among all car rental companies.

George Dillard, representing the Good Sam organization, testified in **opposition to H 643**. He stated his belief that the bill is not in the best interests of Good Sam members and other recreational vehicle users. Mr. Dillard said the car rental companies are, in his view, simply trying to raise profits excessively. He expressed the opinion that there ought to be something put into Code that would prohibit companies from doing this.

Lyn Darrington, representing Dollar/Thrifty Auto Group, testified in **opposition to H 643**. Ms. Darrington testified that in the late 1990s the National Association of Attorneys General met with car rental companies to request that they begin disclosing additional fees in their car rental contracts. Now, it is standard industry practice to do so; Dollar/Thrifty discloses everything in its online information, and the same details will be given over the phone if the customer requests. Ms. Darrington said it is the business of the legislature and of this committee to address problems once they arise, and no problems have been reported in the area of fee disclosures by rental car companies in Idaho.

Skip Smyser, representing the Hertz Corporation, testified in **opposition to H 643**, saying that it appears to be a solution in search of a problem. Mr. Smyser pointed out the burden this legislation would impose on national car rental companies by requiring them to design Idaho-specific ads to include the necessary disclosures which are not required in other states. He also stated that allowing a charge of 1/365th of the total VLF would limit recovery of costs in some cases, since some companies have a higher "occupancy" of their cars than other companies have. Mr. Smyser said the legislation is overly burdensome and is not being asked for by the public. He said he thinks that if there is a problem, Enterprise should work with the rest of the industry to come up with a mutually agreed-upon solution. He also stated that he is not aware of complaints about these fees in the state of Idaho, and that this bill would disadvantage other car rental companies in favor of Enterprise.

Brad Dixon was recognized to present a closing statement. He restated his position that this is not about disclosure, but rather about making the disclosures truthful. Mr. Dixon's position is that other car rental companies are characterizing VLF charges as "cost recovery" when they really represent a profit center. While he agrees that companies are free to charge whatever amount they wish, he stated it is not proper to identify something as a cost recovery when it's actually profit.

MOTION

Rep. Henderson moved to **HOLD H 643 in committee**. In support of his motion, Rep. Henderson pointed out that the sponsor of the bill says there is no particular problem at this time, and therefore it seems premature to ask the legislature to pass a law until a problem is specifically defined. **Motion carried on voice vote.** H 643 will be held in committee.

H 723

Rep. Elaine Smith presented **H 723**, which provides a new definition of "haircutting" and "haircutter" in Idaho Code. The bill amends the requirements for licenses, sets forth training requirements, fees and examinations, and changes some terminology.

Peggy Foster, President of the Associated Cosmetology Schools of Idaho, was recognized to answer questions concerning **H 723**. Ms. Foster read

from a letter from the Idaho Board of Cosmetology expressing the Board's unanimous support for H 723. The letter pointed out that the bill will allow trained "haircutters" to be placed in the marketplace nine months sooner than if they were required to complete full cosmetology licensing requirements. This would also be an advantage to students in terms of lower cost of training and licensing. The "haircutter" license would not be redundant with a barber's license, since each has different requirements. Ms. Foster pointed out other issues that would be clarified by this bill, including the requirements for sanitizing nail brushes.

Responding to committee questions, Ms. Foster stated that a person licensed as a haircutter can still attend further classes and become certified as a cosmetologist after completion of the additional requirements. She also said there is no license for a "beautician"; rather, the term is "cosmetologist." This bill will add another license category of "haircutter." She said it is not possible for cosmetology schools to provide training leading to a barbering license, since the school would have to license itself as a school of barbering and have a full-time licensed barber instructor on staff. Barber instructors are lacking in Idaho and no licensed barber instructors seem to be willing to come into Idaho to work as instructors. Ms. Foster said the "haircutters" would not be able to fulfill barbering functions such as shaving.

MOTION

Rep. Cannon moved to send **H 723** to the floor with a **DO PASS** recommendation.

Millie Hill Herbold, President of the Idaho Cosmetology Association, testified that her association is **in favor of H 723**. Ms. Herbold explained the difference between barbering and cosmetology, saying that cosmetologists do nails, pedicures, and chemical services. Barbers are allowed to shave the face and neck with a flat-edge blade, but do not work on nails or do pedicures.

In response to a committee question, **Rep. Smith** said she is not sure whether H 723 was widely disseminated or whether the barber association was made aware of the legislation. She said she did not ask the Board of Cosmetology to contact the barbers, and she has not heard of any responses to the bill.

E.V. Scholes, Jr., owner of a cosmetology school and two hairstyling salons, testified **in favor of H 723**. Mr. Scholes said the bill will not interfere with the barbers but will create a shorter training period for haircutters, which will give them an opportunity to be only a haircutter within the larger field of cosmetology.

Some remaining concerns were voiced about whether all stakeholders were sufficiently notified or made aware of this pending legislation so they could have come to testify on the bill. **Rep. Smith** responded that the bill does not change anything about barber schools or barber licensing.

VOTE ON MOTION

Vice Chairman Collins called for a vote on the motion to send **H 723** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Snodgrass** voted **no** on the motion. **Rep. Smith** will sponsor the bill on the floor.

H 753 **Paul Jackson**, Farmers Insurance Company, presented **H 753** to the committee. He explained that he is still working out some problems with other interested parties and therefore requested that the bill be held in committee, subject to the call of the Chair.

MOTION **Rep. Deal** moved to **HOLD H 753** in committee, subject to the call of the Chair; **motion carried on voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:00 p.m.

Representative Gary Collins
Vice Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 9, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Reps. Deal, Block, Edmunson, Henbest

GUESTS Steve Keys, Jerry Peterson, Bob Corbell

Meeting was called to order at 2:52 p.m. by Chairman Black. **Rep. Collins** moved to approve the minutes of March 7, 2006 as written; **motion carried on voice vote.**

Chairman Black notified the committee that a number of parties interested in H 761 were still working out some differences, and that he had granted their request to hold the bill until Monday, March 13, at which time they hope to have a bill acceptable to all involved.

MOTION **Rep. Snodgrass** moved to **HOLD H761** to a time certain, to Monday, March 13; **motion carried on voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:55 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 13, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** Reps. Block, Henbest

GUESTS Ted Roper, Jerry Peterson, Mike Kelly, Lee Rice, Gary Ziegler, Paul Jackson, Greg Hendricks, Gavin Gee, Steve Thomas, David Jensen, Dawn Justice, Allyn Dingel, Phil Barber

Meeting was called to order at 2:20 p.m. by Chairman Black. **Rep. Smith** moved to approve the minutes of March 9, with one correction: The minutes should read that the minutes of the March 7 meeting were approved, rather than the minutes of the March 9 meeting. **Motion to approve the minutes as corrected carried on voice vote.**

S 1295 **Ted Roper**, representing the Industrial Special Indemnity Fund, presented **S 1295**. Mr. Roper explained that the Indemnity Fund pays worker compensation claims to those who are permanently disabled, subject to stringent conditions. He said the Industrial Special Indemnity Fund is funded solely through an assessment on workers compensation insurers. The assessments cover both claims expenses and administrative costs. The proposed legislation will allow the Fund to change the timing and frequency of its reporting. Mr. Roper said this will reduce the administrative burden and will have no impact on the Fund's expenses, the assessment amounts, or the workers' benefits. He also testified that he knows of no objection to this legislation

MOTION **Rep. Nonini** moved to send **S 1295** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Nonini** will sponsor the bill on the floor.

H 784 **Steve Thomas**, representing Community Loans of America, presented **H 784**. Mr. Thomas stated that Community Loans of America is based in Georgia and does business here as Idaho Title Loans. He testified that the proposed bill is the result of numerous meetings and multiple drafts, the most recent of which were reviewed by the Department of Finance. Mr. Thomas said the legislation is based on model legislation that was adapted to Idaho's specific needs. H 784 applies to title loans, nonpurchase money

consumer loans secured by a motor vehicle, with the loan scheduled to be

repaid in either a single installment or in multiple installments that are not fully amortized. The legislation does not apply to a motor home, mobile home, or manufactured home.

Mr. Thomas said this bill is an attempt to raise the bar in the title loan industry by putting greater consumer protection measures in place. The bill will require conspicuous disclosure to consumers that title loans are intended to meet short-term cash needs only; will give the consumer the right to cancel a title loan within 24 hours; will prohibit title loan agreements whose term exceeds 30 days; and will prevent excessive renewals of a title loan by requiring a minimum 10% principal reduction each month, beginning with the third month. The bill ensures that a title loan will be fully repaid 12 months from the date of the loan, and prohibits adding accrued interest to the principal as part of any renewal. The bill also requires title lenders to be licensed and to keep specific informational records, and requires certain information about the loan to be printed in 12-point, all capital letters. There is also a requirement for a notice of default, giving the debtor ten days to cure the default. Mr. Thomas said the bill will prohibit loans from being made to anyone under the age of 18 or anyone who is intoxicated. Finally, the bill specifies that the consumer protections may not be waived under any circumstances. Mr. Thomas pointed out that banks, savings & loans, credit unions, insurance companies, and other entities that are otherwise regulated are exempted from the provisions of this bill.

Gavin Gee, Director of the Department of Finance, agreed to answer a question about allowable interest rates in the state of Idaho. Mr. Gee testified that Idaho has not had general usury caps since they were repealed during the 1980s. Mr. Gee said the Legislature has determined that it is preferable to allow the marketplace to set interest rates. **Mr. Thomas** responded to a question about what a “typical” interest rate is on a title loan in Idaho. He said he is not sure what the “typical” rate is, but pointed out that when the interest is annualized it is quite high; however, since the loan amounts are often small, the dollar amount of the interest charged is relatively small on these short-term loans. **David Jensen**, Idaho Title Loans, was recognized to address the question of interest; Mr. Jensen said a typical charge on a \$100 loan for one month might be \$25. A question arose as to whether an extra fee is levied if the loan is not paid at the end of 12 months; **Mr. Jensen** said finance charges continue to accrue as long as the money is not repaid, and pointed out that there are prohibitions against capitalizing the interest charge.

Mr. Gee concurred with Mr. Jensen, noting that the finance charge is disclosed to the borrower and, to the extent the borrower doesn’t pay, the finance charge continues to accrue. But the law doesn’t allow additional fees or charges in addition to the finance charge. Mr. Gee further testified that interest rates generally run several hundred percent on an annual basis. He said there is competition between lenders, and there are more companies going into the title loan business. Mr. Gee also said the average term for a payday loan is about 30 days, while the average term for a title loan is about 46 days. A question arose as to whether it might be wise to set some parameters on the amount of interest that can be charged on

these loans, given the fact that many of the people taking them out are

probably least able to afford a high interest rate. Mr. Gee said the Department of Finance would not recommend setting interest rates, and said that, anecdotally, in states with interest limits, the rates are at least as high or higher than Idaho's. In the current non-regulated environment, competition is better, and these loans are available on the internet, from other states, and from federally-insured financial institutions. Mr. Gee said even if the Legislature were to set an upper interest rate cap, there would still be a number of ways to pre-empt those rates. He explained that the loans are subject to the Idaho Credit Code, and that this legislation is essentially putting a cap on the length of the loan term as well as adding about a dozen consumer protection provisions. He reminded the committee of similar legislation passed a few years ago that applied the same kind of regulations to the payday loan industry.

MOTION

Rep. Collins moved to send **H 784** to the floor with a **DO PASS** recommendation. In support of the motion, he stated that, although he personally does not care for this type of loan, the legislation will at least put additional consumer protection measures into law.

VOTE ON MOTION

Chairman Black called for a vote on the motion to send **H 784** to the floor with a **DO PASS** recommendation. **Motion carried on voice vote.** **Rep. Black** will sponsor the bill on the floor.

Chairman Black told the committee about some of his experiences visiting title lenders while he was researching legislation. He noted that, although it may not seem to be a very good idea to use title loans, some people are in a situation where they can utilize these short-term loans to help grow their businesses. He pointed out that these businesses do exist and that there is demand for the services they provide. This legislation will at least put into place some further consumer protection and a mechanism to regulate or control these businesses if they get out of line.

H 753

Paul Jackson, representing Farmers Insurance company, presented **H 753**. Mr. Jackson said this legislation will align the regulations concerning fire insurance notice of cancellation for nonpayment of premiums into line with the regulations for personal lines. He also noted that H 753 only applies to notice of cancellation for nonpayment of premiums, and said Idaho's 30-day notice provision is the longest notification period he's been able to locate. Mr. Jackson asked the committee to send **H 753 to General Orders** with an amendment requested by lending groups. The amendment will allow five days' mailing time in addition to the ten-day notice requirements.

MOTION

Rep. Smith moved to send **H 753 to General Orders** with committee amendments attached; **Rep. Collins** seconded the motion. **Motion carried on voice vote.** **Rep. Smith** will sponsor the bill on the floor.

H 761

Roy Eiguren appeared before the committee to address **H 761**, which was held by the committee until today. Mr. Eiguren said he had met with the state plumbing board, and at their request he is asking the committee to hold the bill until Wednesday, March 15.

MOTION

Rep. Deal moved to hold **H 761** to a time certain, to Wednesday, March 15; **motion carried on voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:10 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 15, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS Jerry Peterson, Mike Kelly, Dennis Butterfield, Kenny Calkins, John McAllister, Jake D. Hanks, Bob Corbell, Jeff Hagood

Meeting was called to order at 2:25 p.m. by Chairman Black. **Rep. Miller** moved to approve the minutes of March 13 as written; **motion carried on voice vote.**

SCR 129 **Paige Parker**, Legislative Services, presented **SCR 129**, explaining that this concurrent resolution will extend the temporary rules that were approved during the House and Senate Rules Review process at the beginning of the session.

MOTION **Rep. Snodgrass** moved to send **SCR 129** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Snodgrass** will sponsor the resolution on the floor.

H 761 **Roy Eiguren**, representing CNA Western Surety, presented **H 761**. Mr. Eiguren first explained the background of the bill, noting that the House passed a bill last year that would have deleted obsolete provisions dealing with bonding requirements for certain trades licensed by the state. When the bill went to the Senate Commerce Committee last year, that committee inserted some additional language. Since the House did not concur with the Senate's changes, the bill did not pass, and therefore nothing was done to remove the obsolete bonding provisions of existing law.

Mr. Eiguren stated that during the interim a committee met to draft legislation to address the problem. The committee included Sen. Goedde, Rep. Black, and representatives from various trades. Their proposed legislation has since gone through a number of changes, and the resulting legislation is H 761. Mr. Eiguren said he has continued to work with all interested parties to try and arrive at agreement among all of them, and he will propose an amendment to H 761 that should satisfy all those concerns.

Mr. Eiguren explained that the purpose of deleting language from the Code is to remove a provision from the 1960s that requires plumbers and HVAC installers to have a compliance bond. According to his client, CNA Western Surety, this language is obsolete and no longer effective. The new proposed language in H 761 provides for a hybrid between a license bond and a

performance bond and allows the consumer to receive payment of bond proceeds if contractors fail to comply with applicable rules of their boards. The new language also brings uniformity to the bonding and insurance requirements for plumbers, electricians, and HVAC installers.

Mr. Eiguren passed out an amendment that was developed after he met with the state plumbing board on Friday afternoon and after discussions with Bob Corbell and Milford Terrell. He noted that representatives from the plumbing board have not had an opportunity to fully review the amendments.

In reviewing the amendments to H 761, Mr. Eiguren said there are five areas of concern addressed. First, the amendments make clear the authority of the Board with regard to the bonding requirements. Second, the amendment reduces the face amount of the required bond for small contractors. Third, the amendment provides that the board will determine whether a breach of contract or failure to comply has taken place. Fourth, the amendment states that in order for claims to be payable by surety companies, the claims must be within the scope of the bond. Finally the amendment provides that a bond shall be continuous unless canceled and provides that aggregate liability shall not exceed the amount of the bond; it also provides a 30-day written notice requirement before cancellation.

Mr. Eiguren said this legislation has been the subject of discussion for about two years and has received a tremendous amount of attention and input from interested parties. He also distributed a letter from a bonding company that showed typical charges for the type of bond proposed in H 761, in order to counter objections that these bonds will be expensive and therefore not feasible from an economic standpoint. Mr. Eiguren said that, if approved, the bill will have an effective date of January 1, 2007. This will allow time for rules to be promulgated and an opportunity for the trades to study the impact, after which any problems can be addressed next year by the Legislature.

Bob Corbell, representing the Idaho HVAC Contractors Association and the Independent Electrical Contractors of Idaho, testified **in favor of H 761**. Mr. Corbell said the electrical industry supports being included and having a bond requirement, and also said the HVAC people support the new bonding because the old bonding is totally useless. Mr. Corbell said the 18-month implementation will give sufficient time for the boards to see how the new requirements will be implemented. He said H 761 with the amendments provides a starting point, although there may be some requirements to add or subtract in the future. Mr. Corbell noted the required bonding is one measure that will help improve the industry, but there are other measures that can be taken to weed out unqualified contractors.

Responding to committee questions, Mr. Corbell distinguished between consumer protection and public safety, saying that a consumer should have an avenue to be compensated for poor work, unpaid labor or unpaid materials costs. Public safety, on the other hand, is a function of required inspections. He noted that Washington and Oregon deal with claims somewhat differently than the proposed bonding procedure in Idaho.

Jerry Peterson, Idaho Building Trades, was recognized to explain Oregon's procedure. Mr. Peterson testified that claims in Oregon are filed through the Oregon State Contractors Board, and if there is a disagreement, Oregon's statutes still allow for an appeal to a court. Mr. Peterson said that in Idaho,

the existing boards do not have jurisdiction over the entire state; rather, Idaho allows cities and counties to do inspections.

Chairman Black said this bill will allow the boards to make a determination of a violation or breach of contract, and then the party goes directly to the bonding company for settlement. The bill does not require judicial proceedings in order to make a claim on the bond. If the bonding company denies a claim, then judicial procedure is still available.

In response to a question about what the amount of a typical HVAC contract is, **Mr. Corbell** said the majority of HVAC contracts are under \$10,000 unless they are for commercial installations. The same would apply to electrical contracts. Mr. Corbell also said the majority of problems seem to surface in remodeling and service work, rather than in new construction.

Jerry Peterson testified in opposition to H 761. Mr. Peterson said he had worked extensively on the bill and was told that the electrical and HVAC boards fully supported the bill, but that wasn't necessarily the case. Mr. Peterson said that while the bill was being developed, the industry as a whole was not consulted, so interested persons may not be fully aware of and involved in the legislation. He said there may be unintended consequences that are not currently understood or foreseen. He also said the bonding requirement does not provide consumer protection and said it will cause an increase in the cost of doing business, which will be passed along to the consumer. Mr. Peterson said he has not had a chance to look at documentation from Washington and Oregon that shows whether these bonds are effective. He also said that, as a small HVAC service company, the additional cost of bonding could put him out of business. Responding to questions from committee members, Mr. Peterson said one of the "unintended consequences" that he referred to might be that some may go out of business or find it more difficult to start up a business.

Kenny Calkins, owner of Cloverdale Plumbing, testified in opposition to H 761. He said he doesn't have a problem with an insurance requirement, nor does he think the \$10,000 bond requirement will negatively affect his business. Mr. Calkins said his problem is that he had just received a copy of the proposed amendments and had not had time to see if they represented a workable solution. He said he thought third-party inspectors might present a problem, and he is also concerned about the board having to meet more often than four times a year to handle these inspections.

Mr. Eiguren was recognized to answer further questions from the committee. He testified that the intent of the amendment is to give great flexibility to the licensing board and to make it clear that they have rulemaking authority. It will be up to the boards to develop rules to implement this legislation, and they can decide what procedures to put in place to effectively do that. Mr. Eiguren also pointed out that the January 1, 2007, implementation date gives the board the next nine months to study the rules and adopt new ones to present to the Legislature next year.

In closing, Mr. Eiguren said all interested parties had made significant progress on this bill, and any remaining problems can be addressed when the bill goes to the Senate. In summarizing what the bill will and will not do, Mr. Eiguren said there is no debate or disagreement as to whether the

existing code sections are obsolete. They are, in fact, not working and they need to be changed. He also said that putting a bonding requirement into Code is not a subject of debate. The industry standard is now a "hybrid bond" as he explained earlier, and this type of bond is readily available on the marketplace at an affordable price. He said there is no evidence to suggest this type of bonding will force anyone out of business because of the price of the bond. Such bonds cost \$10 to \$20 per thousand, so a \$10,000 bond will cost between \$100 and \$200, based on a contractor's credit record, claims history, and other factors. Mr. Eiguren noted that the previous concerns about the authority of the board is cleared up by the amendment to the bill.

Further questions surfaced about whether this bill will put an additional burden on the individual boards. Mr. Eiguren responded that the Legislature has determined it is in the best interest of Idaho's citizens to have licensing boards to license certain professions. These boards are required to set standards and to enforce those standards, and one mechanism for enforcement is a bonding requirement. Mr. Eiguren said the level of inspections carried out by individual boards is partly a function of available funding; it is his hope that all boards will enforce their own rules as aggressively as they can.

MOTION

Rep. Deal moved to send **H 761 to General Orders** with amendments attached, including an implementation date of January 1, 2007; **Chairman Black** seconded the motion.

In support of the motion, Rep. Deal reminded the committee that last year the House passed a bill that would have deleted bonding requirements, and this year the discussion has progressed to the point where a consistent bonding requirement is being proposed for plumbing, HVAC, and electrical contractors. He pointed out that states bordering Idaho have much more stringent requirements. He also noted that this legislation will provide consistency among the various trades in terms of insurance requirements. In addition, the implementation date of January 1, 2007, provides sufficient time for study and further suggestions for refinement.

VOTE ON MOTION

Chairman Black called for a vote on the motion to send **H 761** to General Orders; **motion carried on voice vote**. **Rep. Cannon** asked to be recorded as voting no on the motion. **Rep. Deal** will sponsor the bill on the floor.

ADJOURN:

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

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 17, 2006

TIME: 12:30 p.m.

PLACE: Room 408

MEMBERS: Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmundson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

GUESTS: Jayson Ronk, John Eaton, Jeremy Pisca, Paul Astin, Dennis Davis, Doug Brown

The meeting was called to order at 12:30 p.m.

H 822 **Roy Eiguren**, representing Amalgamated Sugar Company, spoke in support of **H 822**, Multiple Employer Welfare Arrangements (MEWAs). This bill would amend Chapter 40, Title 41 to update and add to requirements for self-funded employer health plans offered by multiple employers. Private single employer plans are governed by federal regulations. The new and updated requirements add a definition for multiple employer plans and require that self funded plans maintain adequate reserves to cover the anticipated health claims of the employees covered by the plan, maintain some additional supplies to cover losses in the event claims are underestimated, maintain stop loss coverage to protect against catastrophic losses, use a qualified actuary in establishing rates and reserve requirements, provide quarterly financial summaries to the Department of Insurance, use a properly licensed third party administrator, provide notice to prospective participants that the plan is not insurance and not entitled to guaranty association protection, and provide detailed information when applying to the Department of Insurance for registration.

MOTION: **Rep. Deal** made a motion to send **H 822** to the floor with a **DO PASS** recommendation. **By voice vote the motion passed.** **Rep. Deal** will sponsor the bill on the floor.

H 823 **Jayson Ronk**, representing the Building Contractors of Southwest Idaho (BCA-SWI), presented **H 823**. This bill seeks to amend the makeup of the Idaho Building Code Board (the Board) by adding three homebuilders or general contractors to the Board. This legislation also provides that the Board will meet at the call of the Administrator or Chairman or at the request of a majority of the members. Current law provides that four members may call a meeting.

Several representatives asked questions regarding current membership of the Board and how the Board has an effect on the International Code Council (ICC).

John Eaton, Government Affairs Director of the Idaho Association of Realtors, said the ICC writes the code and the Board has the opportunity to adopt or amend it by taking it to the Legislature. He said the Board has

significant authority to regulate industry through that code. A representative pointed out that the purpose of the ICC is building safety.

Dennis Davis, Idaho Building Board, said the Board has no rule-making capacity to adopt codes, but must go through the Legislature process. The bill to adopt the ICC was brought by a large coalition and the Legislature accepted that building codes had to be standardized. H 823 was brought primarily by homebuilders and contractors. Mr. Davis said the Board never had an opportunity to sit down with the homebuilders before the bill came to the Legislature. He said he is **opposed to H 823** because homebuilders could become a dominant interest.

A representative pointed out that homebuilders represent one in nine Board members and it seemed to him that they were under-represented. He asked if there was a reason Mr. Davis felt homebuilders would be over-represented, since even with one-third of the vote they wouldn't be a majority. Mr. Davis stated he was not opposed to the change in the makeup of the Board but he would have liked to have been part of the discussion.

Paul Astin, President, Idaho Association of Building Officials, said he was not opposed to an increase of contractor representation, but he would like time to study the question. He said he was not given enough time to analyze the bill or speak with the homebuilders.

Doug Brown, Chairman of the Board and Deputy Chief Fire Marshall in Caldwell said this legislation came as a total surprise to the Board and the Fire Chiefs Association. He asked what was wrong with the current Board. He felt the change in H 823 was brought too abruptly by a special interest group. He also said he would like to have rulemaking power restored to the Board.

Jeremy Pisca, a lobbyist for the Idaho Building Contractors Association, stated that he didn't want the discussion to evolve into a battle. He said the allegation that the Board didn't have the opportunity to respond was incorrect. He said he sent out a draft and received responses from Mr. Brown and Mr. Davis, among others. On the basis of these responses, he made changes to the draft. He said the builders are not trying to hijack the Board and only want a little more voice on the Board considering the number of homebuilders and general contractors in the state.

MOTION: **Rep. Snodgrass** moved to send **H 823** to the floor with a **DO PASS** recommendation. **By voice vote the motion passed.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:54 p.m.

Representative Max Black
Chairman

Mary Betournay
Acting Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 23, 2006

TIME 1:30 p.m.

PLACE Room 408

MEMBERS Chairman Black, Vice Chairman Collins, Representatives Deal, Block, Rydalch, Cannon, Snodgrass, Edmunson, Miller, Bilbao, Chadderdon, Henderson, Nonini, Henbest, Smith (30), Rusche

**ABSENT/
EXCUSED** None

GUESTS Julie Taylor, Steve Tobiason, Teresa Molitor, Lyn Darrington, Peg Munson, Ron Hodge, Brad Hoaglund, SueAnn Reese, Allyn Dingel

Meeting was called to order at 3:25 p.m. by Chairman Black.

S 1423 **Sen. Joyce Broadsword** presented **S 1423**, a bill designed to ensure the privacy of genetic testing results. Sen. Broadsword explained that citizens need the assurance of this genetic privacy so they will not be discriminated against by insurers or employers because of genetic test results. She stated people are sometimes deterred from getting genetic tests because they fear such discrimination. Sen. Broadsword also pointed out that a person who tests positive for a genetic predisposition to some illness or condition still may have only a 20% chance of contracting that illness. She testified that 33 other states have passed similar legislation; in 24 states, employers are prohibited from requiring genetic tests as a condition of employment. She also said the U.S. Congress has been working on such legislation for the past ten years.

Sen. Broadsword gave a brief history of the development of S 1423, saying she first sponsored S 1361, which was replaced by this bill after discussion with interested parties who pointed out various problematic aspects in the first bill. S 1423 was further amended in the Senate to take out the private right of action provisions, change the number of employees, and change the penalty phrase to be consistent with other insurance sections of the Code.

Responding to committee questions, Sen. Broadsword said the language on page 1, lines 36-37, referencing "DNA markers," refers to a specific sequence of DNA that makes the gene that causes an illness. She noted that the language dealing with disability income was written by the Department of Insurance. She said S 1423 will offer genetic privacy protection from an employer or insurer, but it cannot guarantee privacy from unscrupulous persons who might obtain the information in some illegal manner.

Shad Priest, Department of Insurance, was recognized to answer questions. Mr. Priest stated that disability insurance is defined to cover a fairly broad spectrum of coverage; it does not, however, cover life insurance. A pure long-term care policy would also fall into the definition of disability, as does

disability income coverage. Mr. Priest clarified the language about unfair discrimination, saying that an insurer must treat similarly situated persons in the same manner. Under existing law, if a person has a genetic disorder, an insurance company can rate him or treat him differently, as long as all others in that same class are treated the same. Mr. Priest said S 1423 will go further, requiring insurers to treat such a person just like any other person. He also pointed out that insurance companies will not have access to information that indicates some predisposition to an illness, unless the applicant for insurance discloses family history information.

Sen. Broadsword pointed out the language on page 1, line 41, which specifies that “genetic analysis” or “genetic test” does not mean “a test performed due to the presence of signs, symptoms or other manifestations of a disease, illness, impairment or other disorder.”

Steve Tobiason, representing America’s Health Insurance Plans, testified on **S 1423**, saying he is opposed to the bill but only for limited reasons. Although he cannot support the bill as written, he will propose amendments which will make the bill acceptable to his clients. Mr. Tobiason said the original Senate bill was based on a Utah statute, but the proposed legislation removed insurance companies from Title 41 of Idaho Code and put them in a different section. The subsequent legislation was changed to correct this problem, and protection was also extended to individual policyholders in addition to large and small groups. Mr. Tobiason commended Sen. Broadsword for her work in amending the original bill. He expressed his continuing concern for the possibility that the bill will be applied to long-term care insurance and disability insurance, stating that the intent of the bill was to apply to health insurance only.

Mr. Tobiason distributed copies of his proposed amendment: On page 3, line 35, delete the word “disability” and insert the words “hospital or medical.” Mr. Tobiason said the intent is to clarify that the bill applies strictly to health care insurance, and said the Department of Insurance agreed that this language would accomplish that. Mr. Tobiason said concerns had been expressed by long-term care insurers who were not able to be at the meeting today. It is his opinion that these long-term care insurers need to inform Legislators more fully about their products to reach a greater understanding of how their products are different from other health insurance products.

Responding to committee questions, Mr. Tobiason said that taking out the term “disability” means that long-term disability and long-term care products will no longer be covered by this bill. Unlike health insurance policies, which are issued on a 12-month basis, long-term care products and long-term disability policies are issued far into the future, and the risks involved are totally different.

Mr. Priest was recognized to answer further questions. He said the term “disability” in the Code refers primarily to health insurance, and it had not occurred to him that other types of policies would be problematic. He said his understanding of the bill’s intent was to bar health insurance companies from using genetic test results to determine how much to charge an applicant or to determine whether to issue a policy. Mr. Priest said companies could deny someone long-term care coverage based on genetic information because such policies are not covered by the HIPAA laws. He pointed out

that nothing in S 1423 would prevent a company from asking about one's parents and then basing decisions on information obtained in that manner.

Mr. Tobiason noted that the only way a long-term care company can obtain genetic information is if that information is part of one's medical records obtained from a doctor. Companies look at current history and family history, and review a composite of information in order to make decisions on long-term care policies.

Teresa Molitor, Vice President of Human Resources for Idaho Association of Commerce and Industry (IACI), testified on **S 1423**, expressing gratitude to Sen. Broadsword for her work on the bill and the necessary changes. Ms. Molitor stated she still has some difficulty with the enforcement section of the bill and would also prefer a graduated penalty structure so small businesses would not have to pay \$25,000 per violation. Her main area of concern is in Section 39-8303, dealing with restrictions on employers. Ms. Molitor distributed copies of a proposed amendment, explaining that it would remove language in subsection (1)(a) which was previously removed from subsection (1)(d). This amendment is aimed only at making the language consistent throughout the section. Ms. Molitor stated that Sen. Broadsword has no objection to this amendment.

Peggy Munson, Chairman of the AARP Idaho Capital City Task Force, testified **in favor of S 1423** as amended in the Senate. It is her position that the results of genetic testing can be an invaluable tool in helping an individual make health care and lifestyle decisions, and results of any genetic testing should not be used to discriminate against an individual's health coverage. Ms. Munson deferred to **Joe Gallegos**, Associate State Director for AARP Idaho, to answer a question from the committee. Mr. Gallegos testified that, after studying some of the proposed amendments, AARP is supporting S 1423 but opposes Mr. Tobiason's amendment.

Ron Hodge, representing the Idaho Medical Association, testified **in favor of S 1423**, saying that the Association passed a resolution in 1994 that supports genetic privacy. Their concern is that, if the information is used to discriminate, patients may be dissuaded from getting genetic testing, which may delay diagnosis and treatment or make it more difficult. Mr. Hodge said he does not have a problem with the IACI and the Tobiason amendments, if they do not interfere with the bill's passage this session.

Brad Hoaglund, representing the American Cancer Society, testified **in favor of S 1423** as amended in the Senate. Mr. Hoaglund pointed out that genetic factors are not something that is currently used to determine a risk pool or to fix rates, but they could be used in the future. He said it is important to understand that discovery of genetic information which suggests a predisposition to an illness does not necessarily mean a person will contract the illness. He views genetic testing as an early warning system that allows a patient and his or her health care provider to determine health care and anticipate any future possible problems. Mr. Hoaglund also noted that this legislation is not breaking new ground, since 33 states now have such a law on their books. It is easy to imagine how such genetic test results could be used by companies in an attempt to become more competitive, reduce employee turnover or productivity, and discriminate against certain employees.

Answering committee questions, Mr. Hoaglun said that using the results of genetic testing may one day become a legitimate practice at some point when human genetic makeup is understood much better than it is at the present time. Until that time, however, he thinks it is wise not to go in that direction.

SueAnn Reese, Governmental Affairs Director for the American Heart Association, testified **in favor of S 1423** as amended in the Senate. She testified that heart disease is a highly preventable disease and this legislation will encourage people to seek genetic testing without fear of discrimination because of the results. The Heart Association wants to modify risk factors for heart disease at an early age, and genetic testing offers individuals the ability to modify a care plan based on genetic factors and other information.

Allyn Dingel, representing State Farm Insurance Companies, testified on **S 1423**. Mr. Dingel addressed the issue of “discrimination,” noting that discrimination is not a pejorative word but is, in fact, the basis and the heart of all insurance decisions. Insurance companies consider all factors and then discriminate based on those factors when making a decision about whether to insure someone. The point is that the insurance company cannot be arbitrary, capricious, or unfair in its discrimination. Insurance actuaries have to be able to assess the risk, and they have an obligation to their stockholders, mutual policyholders, consumers, and the State of Idaho to assess risks to the best of their ability. Mr. Dingel pointed out that long-term disability is a different type of insurance than health insurance, which is issued for 12-month periods of time. He is asking that the bill be amended so the term “disability” can be removed.

Kelly Buckland, representing citizens with disabilities, testified in favor of **S 1423**, saying he supports privacy of genetic testing so individuals will not be deterred from having genetic tests performed which may help them make health care decisions.

Sen. Broadsword was recognized to close debate on **S 1423**. She thanked all who testified and responded to some points of concern that had been expressed. She said insurance companies are not presently using genetic information, so the legislation is not removing a source of information that they have previously relied upon in making decisions about rates and/or coverage. She also reiterated that no one can require a genetic test, and said it is up to each person whether or not to disclose the results of any genetic tests they may have performed.

MOTION

Rep. Nonini moved to send **S 1423 to General Orders** with the two proposed amendments attached, as follows: On page 3, in line 35, delete the word “disability” and insert the words “hospital or medical.” On page 2, on line 21, delete the words “or otherwise take into consideration.” Rep. Smith seconded the motion.

SUBSTITUTE MOTION

Rep. Rydalch offered a substitute motion to send **S 1423** to the floor with a **DO PASS** recommendation.

Arguing in favor of the substitute motion, **Rep. Deal** said the best way to

protect consumers is to leave the bill as written. **Rep. Henbest** stated she favors the substitute motion, saying that it would be premature to allow this kind of discrimination based on genetic testing. **Rep. Rusche** said he supports the concept of genetic privacy, and said he foresees a time when people who know they are at a low risk for certain illnesses, because of genetic testing, may decide not to participate in insurance plans, leaving those more vulnerable in the insurance pool. This will represent a fundamental change in the insurance industry in the future. **Rep. Block** said this legislation is not taking anything away from insurers or employers. She sees an advantage to genetic privacy because it will allow people to receive genetic information in order to plan preventive measures, without fearing discrimination.

Rep. Smith argued against the substitute motion, pointing out that the sponsor of the bill intended the language to be applied only to health care, and the proposed amendments clarify that.

Rep. Rydalch stated her primary concern is with the timing of this legislation, saying that amending the bill may delay it beyond the end of this year's session. She thinks it is more important to pass this bill and then come back next year if amendments are needed.

**ROLL CALL
VOTE**

A roll call vote was requested on the substitute motion to send S 1423 to the floor with a DO PASS recommendation. **Voting in favor of the substitute motion:** Reps. Collins, Deal, Block, Rydalch, Edmunson, Miller, Bilbao, Chadderdon, Henbest, and Rusche. **Voting in opposition to the substitute motion:** Reps. Cannon, Snodgrass, Nonini, Smith, and Black. **Substitute motion passed, 10 ayes and 5 nays.** Rep. Shepherd (2) will sponsor the bill on the floor.

Chairman Black thanked the committee for its thoughtful debate and consideration of this bill, which he believes is one of the most complicated bills of this session as well as one of the most important.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 5:10 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary