

House Business Committee

Minutes
2008



MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 9, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Chairman Black, Rep. Snodgrass

GUESTS: Michael Larsen, Gavin Gee, John Eaton

The meeting was called to order at 1:40 p.m by **Vice Chairman Henderson**. Rep. Henderson welcomed members of the committee and asked the newest member, **Rep. Curtis Bowers**, to introduce himself. Rep. Bowers shared brief biographical information with the committee and said he was appointed to replace Rep. Bob Ring, District 10, who resigned after last year's session. Rep. Henderson then introduced the committee's Page, **Ashley Miller**, from Jerome.

Rep. Henderson announced that the administrative rules awaiting review by the committee would be handled in a slightly different manner this year. He explained that those rules which are expected to be potentially controversial or troublesome will be assigned to a Rules Subcommittee for hearing and recommendation to the full committee. All other rules will be considered by the full committee without being first assigned to a subcommittee. Rep. Henderson announced that he will serve as Subcommittee Chairman; members of the Rules Subcommittee will be: **Reps. Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Durst, and Killen**.

Rep. Henderson noted that the subcommittee can function well with three fewer members, and he asked any members who wished to be excused from serving on the subcommittee to notify the secretary of their wishes. Rep. Henderson and **Rep. Collins** briefly explained the administrative rules approval process, saying the legislative review process ensures that the rules adopted to implement last year's legislation are in compliance with the intent of the legislation. They also pointed out that the subcommittee hears testimony on proposed rules but does not make a final decision; rather, the subcommittee makes a recommendation to the full committee on whether to accept or reject proposed rules.

**Docket No.
12-0110-0701**

Michael Larsen, Consumer Finance Bureau Chief at the Idaho Department of Finance, appeared before the committee to present a temporary administrative rule, **Docket No. 12-0110-0701**. This rule was adopted by the Director of the department and published in December 1007, with an effective date of January 1, 2008. Mr. Larsen explained that the 2006 Legislature authorized the Director to establish new requirements for Idaho

to participate in a nationwide mortgage licensing system, and this temporary rule enabled Idaho to be among the first states to implement the use of the nationwide system. It prescribes the licensing application and maintenance process and specifies that licensees must obtain a minimum of two credit hours of ethics instruction as part of their 16-hour continuing education requirement for each two-year reporting period. The rule also aligns Idaho's requirements with nationwide standards by amending the definition of "credit hour" from 60 minutes of instruction to 50 minutes of instruction.

Mr. Larsen reported that as of today's date, one week after implementation, the department has received 76 filings through the new national system, 75 of which are existing licensees and one of which is a new license application. He also noted that the department worked closely with the Idaho Association of Mortgage Brokers and the Idaho Mortgage Lenders Association in developing this rule, and he said there has been no resistance or opposition to the new system.

Responding to committee questions, Mr. Larsen said the new system does not remove any jurisdictional power from the state to oversee licensees; rather, it enables Idaho to provide licensees an easier, more streamlined and coordinated interstate licensing system. He said this new licensing system is operated by the same entity (FINRA, formerly NASD) that operates similar licensing systems for the securities industry. He also noted the system is paid for by its users. Mr. Larsen confirmed that enforcement rests with the director of the Department of Finance, and that the department can refer a matter to the prosecuting attorney or the U.S. attorney if this is merited. He stated that 40 states have joined the nationwide system, and more are expected to do so.

MOTION

Rep. Collins moved to **approve Docket No. 12-0110-0701**. In further discussion, Mr. Larsen stated that it is the intention of the Department to propose a permanent rule next year to establish the national system in Idaho; in the meantime, he is asking that the committee vote to extend this temporary rule. **Motion carried on voice vote.**

Vice Chairman Henderson told committee members that the remaining administrative rules will be considered by the full committee, with the exception of those rules assigned to the Rules Subcommittee. After some discussion, it was decided by consensus of members that the secretary would make copies of all administrative rules so members would have them available for consideration.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:25 p.m.

Representative Frank Henderson
Vice Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 17, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Reps. Rusche & Durst

GUESTS: Jeanne Jackson-Heim, Ed Hawley

Meeting was called to order at 1:30 p.m. by Chairman Black. **Rep. Patrick** moved to accept the minutes of the January 9, 2008 meeting as written; **motion carried on voice vote.**

**Docket No.
33-0101-0702**

Jeanne Jackson-Heim, Executive Director of the Real Estate Commission, presented **Docket No. 33-0101-0702**, which establishes minimum teaching standards for courses taught by real estate education providers. Ms. Jackson-Heim stated the commission held a public hearing on this rule and received no comment.

**Docket No.
33-0101-0703**

Ms. Heim then presented **Docket No. 33-0101-0703** to the committee. This rule provides that notices of non-compliance with the commission's errors and omissions requirement may be sent by first class mail rather than by certified mail. Ms. Heim recounted the considerable postal costs being incurred in sending these notices by certified mail, pointing out that many people do not pick up certified mail and saying that first class mail seems to be delivered more effectively. The postal savings from this change will allow the commission to send a duplicate notice to a licensee's home address, helping to ensure that it is received. Ms. Heim said no comments were received on this rule change.

Responding to a committee question, Ms. Heim said that if a licensee fails to respond to the notices sent to home and business addresses, no further notice is sent. This does not result in license revocation, however; rather, the license is simply inactivated. She said the response rate has actually been much improved since the commission began sending notices to home addresses.

**Docket No.
33-0101-0701**

Ms. Heim presented **Docket No. 33-0101-0701**, a pending fee rule. She explained that legislation was passed last year to change certain set fees to "not to exceed" amounts, with the exact fee to be established by administrative rule. This rule codifies the exact fees that were previously set forth in statute; no fee increases will result from this action. Again, no comments were received from the public.

In response to a committee question, Ms. Heim said the commission has

reduced its fees three times over the last few years, due to an accumulation of surplus funds in its account. In addition, she said they have been able to stop charging any fee for license changes. At this point, the commission is not likely to further reduce fees, since they expect to see a rather significant downturn in the number of licensees.

MOTION

Rep. Snodgrass moved to **approve Docket No. 33-0101-0702, Docket No. 33-0101-0703, and Docket No. 33-0101-0701; motion carried on voice vote.**

Chairman Black announced that the committee's next meeting will be held on Monday, January 21. 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 HENDERSON ADMINISTRATIVE RULES SUBCOMMITTEE

DATE: January 17, 2008

TIME: 1:50 p.m.

PLACE: Room 228

MEMBERS: Chairman Henderson, Vice Chairman Chadderdon, Representatives Mathews, Patrick, Hagedorn, Bowers, Durst, Killen

**ABSENT/
EXCUSED:** None

GUESTS: Steve Keys, Carl Lohrengel, Jeff Fitzloff, Jack Rayne

Meeting was called to order at 1:50 p.m. by Chairman Henderson.

Steve Keys, Deputy Administrator in charge of operations at the Division of Building Safety, appeared before the committee and introduced other members of the Building Safety staff, namely, **Jeff Fitzloff**, Electrical Bureau Chief; **Carl Lohrengel**, Plumbing Bureau Chief; and **Jack Rayne**, Building Bureau Chief.

Mr. Keys reported that all rule changes had been promulgated through the various boards and said the division had received no objection to any of its proposed rule changes.

**Docket No.
07-0102-0701**

Mr. Keys presented **Docket No. 07-0102-0701** and explained that this fee increase is an attempt to bring some consistency to its inspection fee structure among the various departments in the Division of Building Safety. Previously the fees for plumbing and HVAC inspections of commercial and industrial buildings were substantially higher than for electrical inspections. Mr. Keys said the division approached the plumbing and HVAC departments and asked them to consider a decrease in their fees, and the proposed fees reflect the resulting fee levels at which they are willing to agree. In order to make the electrical fees consistent, an increase of approximately 20% in their fees was necessary; this increase is reflected in the new proposed electrical inspection fee. Mr. Keys said the division has a consolidated permitting process, and these uniform fees will streamline this process as well as make software development and implementation much simpler.

In answer to committee questions on why the number of inspections allowed is different depending on the size of a residential structure, Mr. Keys explained that larger residences are often completed in sections. Some local jurisdictions require cover inspections before walls can be put in place, so multiple inspection trips are necessary. In other cases, people call for inspections before the construction is actually ready to be inspected, and this necessitates a repeat trip for the inspector. Smaller dwellings, according to Mr. Keys, are usually not as complicated and usually don't require as many trips.

Mr. Keys noted that the division had made every effort to disseminate information concerning these rule changes, including holding discussions with builders' associations. He said they did not discuss the rules at the county level with local building officials because they do their own permitting and the division does permitting for electrical, HVAC and plumbing.

MOTION

Rep. Hagedorn moved to recommend **approval** by the full committee of **Docket No. 07-0102-0701**; **motion carried on voice vote.**

**Docket No.
07-0103-0701**

Mr. Keys presented **Docket No. 07-0103-0701**, which changes the qualification requirement for electrical contracting licenses. This rule raises the qualification for all new electrical contractor licenses to a signing master electrician, rather than a signing journeyman electrician. The same requirement is imposed upon current contractors when their present qualifier leaves their employ. Mr. Keys said the rule does not affect industrial accounts or specialty contractors. He stated this rule has been arrived at after four years of negotiated rulemaking, and he said he is not aware of any opposition to it.

The committee asked about the \$300,000 liability insurance requirement in the rule; Mr. Keys said this amount has been the ongoing standard for several years, although he agrees that it might be somewhat low. He also pointed out that liability insurance is required for electrical contractors, whereas plumbers and HVAC installers are required to have a \$2,000 bond.

MOTION

Rep. Patrick moved to recommend **approval** by the full committee of **Docket No. 07-0103-0701**; **motion carried on voice vote.**

**Docket No.
07-0203-0701**

Mr. Keys presented **Docket No. 07-0203-0701**. This rule implements the new plumbing permit fee changes resulting from the effort to standardize all permitting and inspection fees.

MOTION

Rep. Hagedorn moved to recommend **approval** by the full committee of **Docket No. 07-0203-0701**; **motion carried on voice vote.**

**Docket No.
07-0205-0701**

Mr. Keys then presented **Docket No. 07-0205-0701**, which requires water softener installers to hold an appliance plumbing specialty license or a journeyman plumber's license. Mr. Keys explained that the division has been encountering an increasing number of substandard installations, and the board thinks this is endangering the health and safety of the public.

Responding to committee questions, Mr. Keys said this rule was brought forth by members of the plumbing board. He said he expected no objections to this rule, since he has received letters of endorsement from water softener companies. If there is opposition, he said, it may come from unlicensed installers who do not want to comply with licensing requirement. The license is relatively easy to obtain, however, requiring only that the person show adequate experience in doing such installations. There is not a burdensome educational requirement attached to this license. Mr. Keys also told the committee that homeowners would not be required to obtain a license in order to install their own water conditioning systems.

- MOTION** **Rep. Durst** moved to recommend approval by the full committee of **Docket No. 07-0205-0701**; **motion carried on voice vote.**
- Docket No. 07-0207-0701** **Mr. Keys** presented **Docket No. 07-0207-0701**, saying this rule clarifies that the plumbing board does not intend to have civil penalties levied on plumbing contractors. He said the board thinks the current remedies, which include license suspensions and revocations, are more effective. He also said the board has not received any opposition to this rule.
- MOTION** **Rep. Hagedorn** moved to recommend **approval** by the full committee of **Docket No. 07-0207-0701**; **motion carried on voice vote.**
- Docket No. 07-0303-0701** **Mr. Keys** then presented **Docket No. 07-0303-0701**. This rule re-establishes administrative rules necessary to support the operation of the modular building board. Senate Bill 1155, passed during the 2007 session, established the Modular Building Board and rendered previous rules moot.
- MOTION** **Rep. Killen** moved to recommend **approval** by the full committee of **Docket No. 07-0303-0701**; **motion carried on voice vote.**
- Docket No. 07-0701-0704** **Mr. Keys** presented **Docket No. 07-0701-0704**, which reflects the changes to HVAC permit fees in order to bring them into conformity with plumbing and electrical permit fees, as discussed in Docket No. 07-0102-0701.
- MOTION** **Rep. Chadderdon** moved to recommend **approval** by the full committee of **Docket No. 07-0701-0704**; **motion carried on voice vote.**
- ADJOURN** There being no further business to come before the subcommittee; the meeting was adjourned at 2:25 p.m.

Representative Frank Henderson
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 21, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Bowers

GUESTS: Barbara Porter, Melissa Nelson, Ken McClure

Meeting was called to order at 1:30 p.m. by Chairman Black. **Rep. Anderson** moved to approve the minutes of the January 17 meeting; **motion carried on voice vote.**

RS 17573

Ken McClure, an attorney representing the Idaho Society of CPAs and the Board of Accountancy, presented **RS 17573** to the committee. Mr. McClure noted that the Idaho Accountancy Act underwent a major rewrite about 15 years ago, but that the act again needs to be rewritten in order to bring it up to date.

Mr. McClure explained the first substantive change in the bill, pointing out that current law requires out-of-state accountants to notify the Board of Accountants and pay a \$50 fee if they want to provide services to clients in Idaho. Because of advancements in the electronic practice of accounting and the mobility of businesses, this is now an impractical provision, according to Mr. McClure. He said the State Board of Accountancy and the Idaho Society of CPAs want to eliminate this requirement. The new law will require out-of-state accountants to have "substantial equivalency" with in-state accountants, and out-of-state accountants will still be subject to the regulatory authority of the Board of Accountancy. Mr. McClure said 11 states have already passed similar legislation, with another 20 considering doing so.

The second substantive change in the bill, according to Mr. McClure, deals with the peer review process for accountants. The proposed legislation will specify that information discovered in a peer review can be a basis for disciplinary action. Other portions of the proposed legislation address the examination of candidates for CPA designation; since the exam is done by computer, it can now be given more often than twice a year.

Mr. McClure introduced **Barbara Porter**, Idaho State Board of Accountancy, and **Melissa Nelson**, Executive Director of the Idaho Society of CPAs. He also responded to committee questions, saying that "generally accepted accounting principles" is the most applicable terminology in the field of accounting, rather than "local standards." Asked about a possible chilling effect on audit work stemming from the peer review provisions, Mr. McClure

said he does not anticipate such an effect.

MOTION

Rep. Mathews moved to **introduce RS 17573 to print; motion carried on voice vote.**

RS 17387C2

Dave Curtis, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **RS 17387C2**. Mr. Curtis noted that this RS is similar to the previous RS, in that it consists of a major rewrite of Idaho Code dealing with the practice of engineering and land surveying. This law underwent a major rewrite about 21 years ago and is now in need of updating again. Mr. Curtis noted that the proposed legislation is the result of a year and a half of consultation, and it is his belief that the new law will need only minor modifications for the next 20 years.

Mr. Curtis detailed the changes envisioned by this RS, saying it will substitute the term "license" for the terms "registration" and "certification" when referencing professional licenses. It also substitutes the terms "engineer intern" and "land surveyor intern" for the terms "engineer-in-training" and "land surveyor-in-training," which are obsolete. He also listed the other objectives of the proposed legislation, saying it will: 1) allow the Board to promulgate rules of continuing professional development as a condition of license renewal; 2) remove obsolete language regarding record keeping; 3) require additional education and a minimum time sequence for a person failing an exam three or more times; 4) allow the Board to waive education and exam credentials for an applicant who has been licensed for at least eight years in a comparable system; 5) remove ambiguities dealing with notification time periods in disciplinary matters; 6) increase the maximum administrative penalty from \$2,000 to \$5,000; 7) remove obsolete language about reissuance or reinstatement of licenses; 8) clarify that the Attorney General prosecutes allegations of misdemeanor unlicensed practices; 9) increase minimum monument size for land surveying from 1/2 inch by two feet long to 5/8 inch by two feet long; 10) require a metal cap or tag on monuments; 11) clarify that professional engineers may perform non-boundary surveys; 12) remove obsolete language regarding oaths to assistants; 13) exempt professional land surveyors from trespass prosecution if they follow notification procedures to property owners; 14) cross-reference sections of Idaho Code in regard to minimum monument size; and 15) clarify the duty of engineers to identify monuments on their plans to allow for preservation.

In answer to questions from the committee, Mr. Curtis said the increase in penalties to \$5,000 is a reflection of inflation since the previous \$2,000 limit was put in place in 1986. He said the notification requirement allows surveyors to cross land adjacent to property they are surveying if the owners are not cooperative, as long as proper notification is given. The provision simply says the surveyor cannot be found guilty of criminal trespass if notification procedures are followed. He noted that the notification must be sent by certified mail with return receipt requested, but there is no requirement that the delivery confirmation be returned.

Responding to further questions, Mr. Curtis said the increase from 1/2 inch to 5/8 inch seems minimal but it significantly increases the corrosion resistance and strength of monument pins. Half-inch pins will bend under the force of a sledge hammer, whereas 5/8 inch pins are stronger and will

not corrode as quickly when installed in caustic or acidic soils.

MOTION

Rep. Rusche moved to **introduce RS 17387C2 to print; motion carried on voice vote.**

Chairman Black notified members that there are 23 pending RS's to be considered by the committee. He also announced that the committee will be meeting Friday afternoon, January 25, and will probably hold regular meetings on Fridays during this session.

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 January 23, 2008

TIME 1:30 p.m.

PLACE Room 228

MEMBERS Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED** Rep. Patrick

GUESTS Kathie Garrett, Karl Malatt, Bill Deal, Shad Priest, Mark Larsen, Dale Freeman

Meeting was called to order at 1:30 p.m. by Chairman Black. **Rep. Rusche** moved to **approve** the minutes of January 21; **motion carried on voice vote.**

Chairman Black welcomed **Bill Deal**, Director of the Department of Insurance, who will present administrative rules and proposed legislation from his department. Chairman Black asked Mr. Deal to introduce members of his staff present at the meeting. Mr. Deal introduced **Mark Larsen**, State Fire Marshal; **Shad Priest**, Deputy Director; and **Dale Freeman**, who deals with title companies and bonding agents. Chairman Black asked other guests to introduce themselves; they are: **McKenzie Miller**, Gallatin Group, **Anita Haymond**; Division of Financial Management; **Kathy Garrett**, representing the Idaho Association of Family Physicians, **Paul Jackson**, representing Farmers Insurance, and **Karl Malott**, Idaho Fire Chiefs Association.

Mr. Deal explained that **Docket No. 18-0144-0701**, a fee rule from the Department of Insurance, was rejected earlier in the Senate. Because of the rejection, it is not necessary to have the docket considered by the Business Committee, and he asked that it be stricken from today's agenda.

RS 17350 **Mr. Deal** presented **RS 17350**, saying it was one of two "housekeeping" legislative proposals from his department. He explained that in 2005 legislation was passed dealing with suitability of annuity products in terms of age, financial condition, and individual circumstances, to afford some protection for consumers over the age of 65. Since then, according to Mr. Deal, the National Association of Insurance Commissioners has updated its model law. The new law extends suitability requirements to all consumers, regardless of age. RS 17350 amend's Idaho's suitability law to make it consistent with the latest version of the model law. Mr. Deal said he is not aware of any opposition to the proposed legislation.

MOTION **Rep. Bilbao** moved to **introduce RS 17350; motion carried on voice vote.**

RS 17362

Mr. Deal presented **RS 17362**, which makes technical corrections to current law applicable to managed care organizations. The proposed changes will allow the director to set deposit requirements for limited managed care organizations, such as dental and vision care organizations. It will also change filing dates for audited financial reports to coincide with other insurers, and will modify filing requirements. Mr. Deal said the proposed changes will make compliance and administration more efficient. He explained that the current formula for deposit requirements is set up on a ratio basis, which has proven cumbersome for small managed care organizations. If the proposed change is accepted, the department will be able to set the reserve requirement at a fixed amount, to be not less than \$25,000. The amount could be increased at the discretion of the director. Responding to questions from the committee, Mr. Deal explained that the current fluctuating minimum deposit requirement is difficult for smaller managed care organizations to administer. The new law will allow the department to set a minimum based on the scope of operations of the companies, and in accordance with general accounting principles.

MOTION

Rep. Smith (30) moved to **introduce RS 17362; motion carried on voice vote.**

**Docket No.
18-0101-0701**

Mr. Deal then presented proposed administrative rules from the Department of Insurance. **Docket No. 18-0101-0701** will clarify that only a geographic index is required to be complete from inception of title, while the name index is not required to be complete from inception of title. The name index must include all instruments, proceedings and matters of record that affect title. Mr. Deal explained that Idaho law requires title agents to maintain a complete set of abstracts but doesn't clearly define what is meant by that terminology. This rule interprets the statutory requirement of "complete index" by specifying that the "completeness" requirement applies only to the title. Mr. Deal said the title industry has requested this clarification from the department, and he reported no known opposition to the change.

Mr. Deal recognized **Dale Freeman** from the Department of Insurance to provide clarifying information, in response to committee questions. Mr. Freeman said the new regulations will still require a general index and will not eliminate the need for a name index. The title agent will still have all necessary records in order to do a title search on a property and determine whether the title is affected or not.

In response to a question from the committee, Chairman Black agreed to entertain one motion, rather than separate motions, to accept all Department of Insurance administrative rules following their presentation.

**Docket No.
18-0103-0701**

Mr. Deal presented **Docket No. 18-0103-0701**, dealing with military sales practices rule. He explained that Congress recently passed a law calling for states to adopt uniform standards regulating sales of insurance products to military personnel. This Congressional action was taken in response to several high-profile cases of high-pressure sales tactics being used with relatively young, inexperienced military personnel. In many instances, sales presentations were conducted on military bases at the behest of commanding officers, and some enlisted personnel thought they were signing up for payroll savings plans or military insurance. Mr. Deal said the National Association of Insurance Commissioners created the Model Military

Sales Rule, and the department's proposed rule will bring Idaho's rules into compliance with federal law. Briefly, the new rule will identify specific methods and practices that will be considered dishonest, unfair, deceptive or predatory, and will apply only to sales or solicitations to an active-duty service member. Mr. Deal said he is not aware of any opposition to this proposed change in the rules.

Responding to committee questions, Mr. Deal said the rule applies only to active-duty military personnel, and to presentations on military facilities. He noted that enforcement would be carried out by the department, and said he thought insurance industry competitors would serve as "watchdogs" for violations. Asked to explain how the industry learns about new rules, Mr. Deal said the rules changes are promulgated on the department's website, www.doi.idaho.gov.

Committee members further questioned the reason for including only active-duty military but not members of the National Guard and Reserve who are not deployed but may be preparing for deployment. Mr. Deal responded that the new rules resulted from negotiations among all parties, and that this could have been part of the compromise in order to arrive at rules acceptable to all.

**Docket No.
18-0106-0601**

Mr. Deal presented **Docket No. 18-0106-0601**, which deals with health insurance coverage for newborn and newly-adopted children. He first gave some background information on the rule, saying that Idaho laws governing individual, group and self-funded insurance plans all require coverage for newborns and newly-adopted infants, including coverage for congenital anomalies. This requirement, according to Mr. Deal, has led to questions about when newborns must be added to plans, how long the coverage lasts, and what constitutes a covered congenital anomaly. He said this rule is an attempt to bring consistency to the matter of how congenital anomalies are handled.

Mr. Deal noted the negotiated rulemaking on this issue was a lengthy process, involving industry representatives, consumers, and several legislators, all of whom worked toward a policy that would provide consistency and fairness. The new rule defines congenital anomaly and provides for coverage that is no more restrictive than that provided for others in the same health plan. It also allows carriers to include a provision in their contracts that they be notified of the birth or adoption within 60 days, and also allows them to set a time limit during which any additional premium must be paid. Mr. Deal said he is not aware of any opposition to the new proposed rules. Members of the committee congratulated the department for these new rules, noting that they provide consistency among the guidelines from various companies.

Shad Priest, Deputy Director of the Department of Insurance, was recognized to answer a question about surrogate mothers and the possible impact of this rule on their situation. Mr. Priest said the rule applies strictly to infants and does not affect a surrogate mother. In such a case, the infant may be covered from birth under the adoptive parents' health care policy, if the adoption is effective as of the date of birth. **Rep. Rusche** explained that "congenital anomaly" refers to abnormalities that are present at birth but are not necessarily inherited, perhaps developing during gestation or the birth process.

**Docket No.
18-0160-0701**

Mr. Deal presented **Docket No. 18-0160-0701**, which amends an existing Department of Insurance rule on long-term care insurance. He explained that several years ago Idaho adopted legislation enabling the state to participate in the Long-Term Care Partnership Program. Under this program, certain types of long-term care policies qualify for special treatment for purposes of Medicaid eligibility. This new rule corrects confusing wording and deletes unnecessary language, as well as specifying that all producers need to take special courses and continuing education courses in order to be licensed to sell long-term care products. Mr. Deal said the new rule creates uniformity in the training of producers who are selling these products, and he said there is no known opposition to this rule.

**Docket No.
18-0179-0701**

Mr. Deal presented **Docket No. 18-0179-0701**, dealing with the use of mortality tables to determine minimum reserve liabilities. This rule will adopt the model rule developed by the National Association of Insurance Commissioners, allowing insurers at their option to use newer mortality tables in determining minimum reserve liabilities. Mr. Deal said this was adopted as a temporary rule to be consistent with other states, beginning Jan 1, 2008. Mr. Deal said there have been no comments received in opposition to this rule.

**Docket No.
18-0150-0701**

Mr. Deal asked the State Fire Marshal, **Mr. Mark Larson**, to present **Docket No. 18-0150-0701**, dealing with the International Fire Code. Mr. Larson explained that the fire code is a companion to the state building code, as adopted by the legislature. During its last session, the legislature dealt with the 2006 building code, which went into effect during the summer. Mr. Larson said the temporary rule implements the updated version of the building code, and noted that the 2006 version maintains the exemption for sprinklers in three- and four-unit multi-family dwellings. Mr. Larson said a public hearing was requested and was held in Midvale. At that meeting, a number of citizens requested language in the rule that would have given local entities the authority to interpret the code. Mr. Larson did not agree to include that language because he did not think that was appropriate.

In response to a committee question, Mr. Larson said the title at the top of the rules book pages, which read "Adoption of the 2003 International Fire Code," should read "Adoption of the 2006 International Fire Code." He believes this was a typographical error.

MOTION

Rep. Crane moved to approve **Docket Nos. 18-0101-0701, 18-0103-0701, 18-0106-0601, 18-0160-0701, 18-0179-0701**, and **18-0150-0701** from the Department of Insurance.

In response to a question from the committee, **Chairman Black** pointed out that the committee can reject or accept either an entire rule or portions thereof, but it cannot change the wording within any particular rule. Because the department's rule adopting the 2006 International Fire Code contains what is thought to be a typographical error, Rep. Crane was invited to restate his motion.

MOTION

Rep. Crane withdrew his motion and moved to **approve Docket Nos. 18-0101-0701, 18-0103-0701, 18-0106-0601, 18-0160-0701, 18-0179-0701**, and **18-0150-0701**, with the request that the "2003" date in the headings be corrected to read "2006" instead.

Committee members expressed concern over the rule dealing with unfair sales practices to active-duty military personnel. Since the majority of military personnel in Idaho are Reservists or National Guard, this rule will not protect them from unscrupulous insurance sales practices. Several committee members encouraged the Department of Insurance to consider revising this rule in order to afford some protection to Reservists and National Guard members.

Shad Priest, responding to these concerns, said the rule was developed in conjunction with other states and in uniformity with them. In the discussions that took place during rulemaking, it was thought that Reservists are not subject to the same pressure experienced by young military personnel who are, in a sense, "captive audiences" for insurance sales pitches held on their respective military bases. Mr. Priest said that, although it would make administration of the rule difficult because of inconsistency with other states, the department does have the ability and authority to implement such a change. **Chairman Black** encouraged the Department of Insurance to study this issue and see how they might be able to apply the same protection to National Guard and Reservists in Idaho.

VOTE ON MOTION

Chairman Black called for a vote on the motion to **approve** all Department of Insurance proposed rules considered by the Business Committee, with the understanding that the "2003" date on the International Fire Code rule should be corrected to read "2006." **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
HENDERSON ADMINISTRATIVE RULES SUBCOMMITTEE**

DATE: January 23, 2008

TIME: 2:40 p.m.

PLACE: Room 228

MEMBERS: Chairman Henderson, Vice Chairman Chadderdon, Representatives Mathews, Patrick, Hagedorn, Bowers, Durst, Killen

**ABSENT/
EXCUSED:** Reps. Durst, Mathews, and Patrick

GUESTS: Roger Hales, Tana Cory

Meeting was called to order at 2:40 p.m. by Chairman Henderson. **Rep. Killen** moved to **approve** the minutes of the January 17 meeting as written; **motion carried on voice vote.**

**Docket No.
14-0101-0701**

Roger Hales, an attorney who represents the Bureau of Occupational Licenses, presented **Docket No. 14-0101-0701**, on behalf of the Board of Registration of Professional Geologists. Mr. Hales explained that this board was previously a stand-alone board whose executive director left in September. At that point, the board contacted the Bureau of Occupational Licenses and asked if they could be moved over to the Bureau. Mr. Hales said these rules were drafted prior to that move.

Mr. Hales presented details of the pending rules, most of which he characterized as “housekeeping” matters. Since the geologists have been moved under the Bureau of Occupational Licenses, their contact information needed to be updated. The rule also provides definitions of various terms including “application” and “geologist-in-training,” removes an examination processing fee, and establishes education and experience requirements. Mr. Hales pointed out that the rule includes details of the geologist stamp, which can be electronic as long as a signature is affixed across the stamp. Additionally, the rule defines application procedures to be followed for registration as a professional geologist and states the required contents of letters of personal reference. The rule also states that the Board is adopting a set of ethical standards listing specific ethical behaviors.

Responding to committee questions, Mr. Hales said he is not aware of any objections to the proposed rules. He said the change from 30 days to 15 days in the examination appeal process is actually beneficial to the applicants. He reported there are 630 licensed geologists in the state, but he does not know the number of applications that are submitted in any given year. Mr. Hales said he would be prepared to give further details on this docket when it is heard by the full Business Committee.

**Docket No.
24-0801-0701**

Mr. Hales presented **Docket No. 24-0801-0701** on behalf of the State Board of Morticians. He stated this pending rule has been reviewed by the funeral directors association and it has their full support. **Rep. Henderson** reported

that he had contacted the largest funeral establishment in Coeur d'Alene and they have no objection to the proposed rules in this docket. The rule determines the testing requirements for a funeral director and combines funeral and crematory establishment requirements. It clarifies the differences between a funeral establishment and a crematory, and deletes obsolete language referring to an application to operate a crematory. Mr. Hales said the rule changes will save money for the Board and will also make the application process simpler.

**Docket No.
24-1801-0701**

Mr. Hales presented **Docket No. 24-1801-0701**, rules of the Real Estate Appraiser Board. He stated the Board has federal oversight by a federal subcommittee that oversees all state licensing boards, pursuant to certain federal laws. According to Mr. Hales, a number of the changes in this docket are made in response to requests from this federal oversight committee. For instance, the subcommittee has advised state licensing boards that the education and experience requirements need to be increased and they have set a deadline by which this needs to be accomplished. Docket No. 24-1801-0701 extends the time within which candidates can gain the experience necessary to satisfy the new requirements. Other changes include striking an entire section of the old rule which is repetitive, changing the name of a course to "computer science," and making other small changes to continuing education requirements.

**Docket No.
24-2101-0701**

Mr. Hales presented **Docket No. 24-2101-0701**, rules of the State Contractors Board. This rule is an addition to the rules adopted a couple of years ago when the Legislature passed a contractor registration act. It will allow the Board to consider felony convictions when determining eligibility for registration as a contractor. Mr. Hales said he prepared this rule and modeled it after a statute from the Idaho Real Estate Commission. The rule will allow the Board to assess whether or not to deny registration based on a previous felony conviction. Mr. Hales reported that, to date, no applicants have been denied using this rule. It does, however, give the Board the authority to request documentation that is helpful in evaluating applicants.

MOTION

Rep. Hagedorn moved to **recommend approval** by the full committee of **Docket No. 14-0101-0701, Docket No. 24-0801-0701, Docket No. 24-1801-0701, and 24-2101-0701; motion carried on voice vote.**

ADJOURN

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

Representative Frank Henderson
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 25, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED** Rep. Anderson, Rep. Smith (30)

GUESTS Barbara Jorden, Agata Kaupas, Allyn Dingel, Paul Jackson, Steve Tobiason, Tana Cory, Roger Hales, Gary Van Hees

Meeting was called to order at 1:30 p.m. by **Chairman Black**. **Rep. Collins** moved to **approve** the minutes of the January 23 meeting, with the following correction: on page 4, in the third line, the minutes should read "not *necessarily* inherited." **Motion carried on voice vote.**

RS 17687C1 **Rep. Russ Mathews** presented **RS 17687C1** to the committee. This RS will amend Idaho Code to define "underinsured motorist coverage" and will require that underinsured motorist coverage be offered in certain policies issued in Idaho. Rep. Mathews explained that under this legislation an insured also will have the right to reject coverage for underinsured motorists. He noted that the effective date for the new requirement will be January 1, 2009.

MOTION **Rep. Crane** moved to **introduce RS 17687C1; motion carried on voice vote.**

Docket No. 14-0101-0702 **Roger Hales**, an attorney representing the Bureau of Occupational Licensing, presented **Docket No. 14-0101-0702**, rules of the Board of Registration of Professional Geologists. Mr. Hales explained that this temporary rule was necessary because the Board of Registration of Professional Geologists was moved under the Bureau of Occupational Licensing, and therefore their contact information, including their physical address, also changed.

Docket No. 24-0401-0701 **Mr. Hales** presented **Docket No. 24-0401-0701**, rules of the Idaho Board of Cosmetology. He explained the major objectives of this rule change, saying it will allow certain degrees to be considered as equivalent to a high school education and will allow for a third-party examination administrator. It also sets requirements for models and establishes eligibility re-examination requirements. The rule deletes the previous 30-day filing requirement prior to an applicant's testing. It also requires that apprentices complete a minimum of 5% of their required course work before they render services to patrons.

Responding to committee questions, Mr. Hales explained that the

administering entity which will be used is the same one that gives the cosmetology exams for surrounding states. Previously, a candidate for examination would have to travel to Boise, bringing a model in order to demonstrate his or her competence in cutting and styling hair. Under the new rule, candidates will be able to take tests around the state. The current fee is \$75; Mr. Hales said this may have to be increased by about \$25.

Mr. Hales provided further details about the rule changes, saying the new rule deletes irrelevant portions dealing with exam requirements and types of models. Mr. Hales said the number of actual hours that constitute 5% of the training varies from specialty to specialty. For instance, a cosmetologist is required to have 2,000 hours and 5% would be 100 hours. Nail technicians, by comparison, are required to have only 400 hours, so their 5% requirement would be met after 20 hours.

Committee members expressed concern about the possibility of a student missing critical safety or health training, because of absences from class, but still being allowed to work on clients because he or she had met the 5% requirement. Mr. Hales said when one is in a school setting, there is sufficient supervision to assure that students do have the necessary training and skills before they are allowed to work on clients. He agreed to make the Board aware of the committee's concerns in this matter.

**Docket No.
24-0701-0701**

Mr. Hales then presented **Docket No. 24-0701-0701**, rules of the Idaho State Board of Landscape Architects. This docket is a pending fee rule which establishes a new registration for the category of "landscape architect-in-training" and sets a \$25 application fee for this category. The rule also adopts the current Rules of Professional Conduct of the Council of Landscape Architectural Registration Boards.

Responding to committee questions, Mr. Hales said "in-training" is the commonly accepted terminology in this field, rather than "intern." He explained that the status of "landscape architect-in-training" is limited to six years because the Board does not want applicants to languish in this status and wants to encourage them to complete their training so as to achieve regular status as a landscape architect.

**Docket No.
24-2201-0701**

Finally, Mr. Hales presented **Docket No. 24-2201-0701**, which deals with insurance and inspection requirements for liquefied petroleum gas. Mr. Hales explained that this rule fleshes out Code changes made during last year's legislative session. He said it adopts the current version of the National Fire Protection Association Code and requires proof of general liability insurance of at least \$1 million in order to apply for an initial LPG facility license. It also details the nature of the required policy. At the time of license renewal, the Board does not need to see the certificate, but licensees are required to swear they have such insurance in force. Mr. Hales also said the rules will allow the Board to create and adopt an inspection form identifying key safety points necessary under the NFPA.

Mr. Hales answered committee questions about current practices with regard to safety violations, saying that the Building Code sets out the bare minimum safety requirements and that violations are handled by the Board as a disciplinary matter. Under new rules, the Board will be able to identify minimum safety requirements and advise individual licensees of necessary

corrections. Licensees will still be afforded due process before any action is taken against them for safety violations. Mr. Hales also assured the committee that the guidelines will be applied uniformly to all facilities.

Chairman Black asked for motions to approve the four dockets presented by Mr. Hales from the Bureau of Occupational Licensing.

MOTION **Rep. Collins** moved to approve **Docket No. 14-0101-0701**, rules of the Board of Registration of Professional Geologists; **motion carried on voice vote.**

MOTION **Rep. Collins** moved to **approve Docket No. 24-0401-0701**, rules of the Idaho Board of Cosmetology; **motion carried on voice vote.**

MOTION **Rep. Collins** moved to approve **Docket No. 24-0701-0701**, rules of the Board of Landscape Architects.

SUBSTITUTE MOTION **Rep. Crane** offered a **substitute motion**, to **reject Docket No. 24-0701-0701**. In support of the substitute motion, Rep. Crane said he objects to the six-year limitation for the “landscape architect-in-training” status.

In the committee discussion that followed, Mr. Hales clarified that the training of a landscape architect-in-training takes place after a candidate has completed the academic requirements for the profession of landscape architect. He also verified that a “landscape architect-in-training” is attached to a particular landscape architecture practice, and a candidate in the “in-training” status is not allowed to set up an independent practice.

VOTE ON SUBSTITUTE MOTION After a voice vote on the substitute motion was inconclusive, **Chairman Black** called for a roll call vote. **Voting in favor** of the substitute motion: **Reps. Mathews, Crane, Patrick, Hagedorn, and Bowers. Voting in opposition: Reps. Henderson, Collins, Snodgrass, Bilbao, Chadderdon, Rusche, Durst, Killen and Chairman Black. Reps. Anderson and Smith (30) were absent and excused. Substitute motion failed: 5-9-2.**

VOTE ON ORIGINAL MOTION **Chairman Black** then called for a vote on the original motion, to **approve Docket No. 24-0701-0701; motion carried on voice vote.**

MOTION **Rep. Collins** moved to **approve Docket No. 24-2201-0701**, rules of the Liquefied Petroleum Gas Safety Board; **motion carried on voice vote.**

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: January 29, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED** Rep. Killen

GUESTS: Cindy Hedge, Bob Corbell, Mark Larson, Joe Silva, Benjamin Kelly, Steve Keys, Jeff Fitzloff, Jack Rayne

Meeting was called to order at 1:30 p.m. by Chairman Black. **Rep. Collins** moved to approve the minutes of the January 25 meeting as written; **motion carried on voice vote.**

RS 17570 **Rep. Elaine Smith (30)** presented **RS 17570**, which deals with minimum standards for Medicare supplement insurance policies. Rep. Smith testified that this legislation will close a gap for people under the age of 65 who qualify for Medicare due to disability. She explained that individuals who qualify for SSI disability payments are automatically eligible for Medicare after a 24-month period. She said that since Medicare coverage does not pay the entire medical bill, supplemental insurance, also known as "medi-gap" insurance, is needed to cover the shortfall. Rep. Smith said that as of September 2007, 23 states required insurance companies to offer at least one type of medi-gap insurance, including California, Colorado, Oregon, South Dakota, and other states across the United States. She said that, unlike Medicare Advantage policies, which are already available in Idaho, medi-gap policies do not limit patients to a specific network of doctors. It is her opinion that Medicare recipients under 65 should have same rights as those over 65, and this legislation will assure them of those rights.

MOTION **Rep. Mathews** moved to **introduce RS 17570; motion carried on voice vote.**

**RS 17716 and
RS 17743** **Speaker Lawrence Denney** appeared before the committee to present two RS's dealing with enforcement of the International Fire Code. He said that since both pieces of legislation are essentially mirror images of one another, he would present them together. The purpose of the proposed legislation is to create uniformity in the enforcement of the International Fire Code on a county-wide basis in the state of Idaho. The Speaker explained that currently each fire district within a particular county can enforce the code to its own liking. For instance, the code says driveways must be 20 feet wide and have an all-season surface. In one Idaho county, according to the Speaker, the widths vary from 12 to 20 feet, which causes a great number of problems with planning and zoning.

The Speaker said that **RS 17716** will ensure uniform enforcement of the international code on a county-wide basis unless the county commissioners reject specific provisions. **RS 17743** will exempt a county from enforcement of the International Fire Code unless the county commissioners specifically adopt provisions. The Speaker said he is uncertain which approach is more appropriate, so he is asking the committee to print both bills and let the hearing process proceed in order to determine which is preferable.

MOTION **Rep. Collins** moved to **introduce RS 17716 and RS 17743; motion carried on voice vote.**

RS 17653 **Rep. Branden Durst** presented **RS 17653**, legislation that will direct the Legislative Council to create an interim committee to study and recommend solutions to assist small business owners pay for health insurance for themselves and their employees. Rep. Durst pointed out that health care is the number one issue among small business owners, and he thinks it is time to have a full discussion about it.

In response to committee questions, Rep. Durst said he believes pooled insurance would be a solution to the cost issues involved in small business health insurance. He acknowledged that the Governor currently has a task force studying the issue of health care, but he said it is the Legislature's responsibility to determine policy, not the Governor's.

Chairman Black pointed out that passage of this resolution will not assure the creation of an interim committee; that decision will be made by the Legislative Council. Answering additional committee questions, Rep. Durst said he would anticipate three meetings in the interim. He said the \$10,000 fiscal impact statement was provided to him by Mike Nugent, and he pointed out that the funding would be provided from money already appropriated in the Legislative account.

MOTION **Rep. Rusche** moved to **introduce RS 17653.**

In further committee discussion, **Rep. Collins** pointed out that the Speaker and the Pro Tem have commented on limiting the number of interim committees that will be authorized. In addition, he said there is an existing health care task force specifically charged with studying the issue and developing ideas and proposals. It was suggested that, rather than authorizing another interim committee, it may be preferable to present a proposal to the health care task force. For this reason, Rep. Collins voiced his **opposition** to the motion to introduce RS 17653.

ROLL CALL VOTE A **roll call vote** was requested on the motion to **introduce RS 17653. Voting in favor** of the motion: **Reps. Anderson, Crane, Hagedorn, Bowers, Smith, Rusche, Durst, and Chairman Black. Voting in opposition: Reps. Henderson, Collins, Snodgrass, Bilbao, Chadderdon, Mathews and Patrick. Rep. Killen** was absent and excused. **Motion passed: 8-7-1.**

RS 17719 **Rep. Rusche** presented **RS 17719**, a measure to increase the consumer protection regulations for those using payday loans. He stated that until 1983 Idaho had a usury law in place which guarded against excessive interest rates. In 2003, the Legislature passed several consumer protection

amendments to the consumer credit code dealing with payday-type loans. That legislation limited the amount of such loans to \$1,000, granted a right of rescission, required the posting of interest rates and fees, limited a returned check fee to \$20, and prohibited criminal prosecution for default. Rep. Rusche said abuses still occasionally occur, despite these measures, and he pointed out that the annual interest rate charged on payday loans can be as high as 400-600%. Rep. Rusche noted that the primary users of payday loan services are of limited financial means. He explained that the Department of Finance licenses consumer credit counseling services, some of which are nonprofit, in order to help individuals learn to use credit more wisely. The proposed legislation will require payday loan companies to notify borrowers of the availability of consumer credit counseling services and to provide a list of debt counselors through the Department of Finance website. Rep. Rusche said a variety of industry representatives assisted in the drafting of this proposal.

MOTION

Rep. Patrick moved to **introduce RS 17719; motion carried on voice vote.**

**Docket No.
07-0101-0701**

Steve Keys, Deputy Administrator of the Division of Building Safety, presented **Docket No. 07-0101-0701**. This pending rule deletes the existing references to multi-part permit forms. Mr. Keys said the division is implementing a system which allows customers to conduct most business by way of the internet and expensive multi-part forms will not be necessary with the new system. The division will continue to furnish single-part forms for those who do business over the counter and/or by facsimile transmission.

MOTION

Rep. Rusche moved to **approve Docket No. 07-0101-0701; motion carried on voice vote.**

**Docket No.
07-0103-0701**

Mr. Keys presented **Docket No. 07-0103-0701**. This pending rule changes the qualification requirement for electrical contracting licenses. Presently, a contractor needs to employ a signing journeyman electrician who is responsible for the operations of the contractor. Mr. Keys said this rule raises the qualification to a signing master electrician for all new electrical contractor licenses, and imposes the same requirement on current contractors when their present qualifier leaves their employ. The new rule will not affect industrial accounts or specialty contractors. Mr. Keys said this rule had been negotiated over course of the past four years.

Responding to committee questions, Mr. Keys said the number of master electricians has increased during the past few years; he estimates the ratio of licensed electrical contractors to master electricians to be approximately 80% contractors and 20% master electricians. He said the new rule allows a 60-day time period for a company to secure a master electrician if their present qualifying master electrician leaves. After that time, if the business does not have a signing master electrician, it would not be permitted to continue doing business. Mr. Keys said the basis for the new higher standard is that the division is licensing a lot of new electrical contractors and they are having serious problems with compliance and/or competency. He said a number of those receiving journeyman electrical licenses are doing so after spending their entire career performing only one small part of electrical installations. Mr. Keys was asked whether this new rule may create problems in small communities where availability of master

electricians could be limited. He said the rule had been discussed throughout the state of Idaho and there was wide support from labor and virtually no dissension. He did acknowledge, however, that there could be situations with small or family businesses who lose their qualifying individual and who will not be able to easily replace him.

Mr. Keys yielded to **Jeff Fitzloff**, Electrical Bureau Chief, to answer a question about how many businesses this new rule would affect. Mr. Fitzloff responded that it would not affect any existing business unless or until its qualifying master electrician leaves. The rule does require new businesses to have a master electrician. Mr. Fitzloff said there are currently about 2,500 electrical contractors in the state. Small, mom-and-pop or one-man electrical businesses are not affected if they are in business at the present time. If the business is sold, however, the new owner will have to comply with this rule requiring a signing master electrician.

MOTION **Rep. Hagedorn** moved to **approve Docket No. 07-0103-0701.**

Rep. Crane said that, in his opinion, this rule will make it harder for smaller electricians to get into the marketplace and establish their businesses. He said it will also likely cause long-term problems, especially during periods of rapid growth when the demand for electricians sometimes outstrips the supply.

ROLL CALL VOTE A **roll call vote** on the motion to **approve Docket No. 07-0103-0701** was requested. **Voting in favor** of the motion: **Reps. Snodgrass, Bilbao, Mathews, Hagedorn, Smith, Rusche, Durst and Chairman Black. Voting in opposition: Reps. Henderson, Collins, Chadderdon, Anderson, Crane, Patrick, and Bowers. Rep. Killen was absent and excused. Motion carried: 8-7-1.**

Docket No. 07-0104-0701 **Mr. Keys** presented **Docket No. 07-0104-0701**, a rule specifying that the previous rule change is not applicable to specialty contractors. He explained that the category of "specialty contractor" includes limited voltage applications like alarm systems, sprinklers, and pump installers. **Rep. Crane** declared, in compliance with Rule 38, that he holds an electrical specialty license.

MOTION **Rep. Smith (30)** moved to **approve Docket No. 07-0104-0701; motion carried on voice vote.**

Docket No. 07-0107-0701 **Mr. Keys** presented **Docket No. 07-0107-0701**, which defines the requirements for approval of continuing education courses, instructors and sponsors. Previously these requirements were referenced only in policy but not in the division's administrative rules. Mr. Keys some enforcement problems have arisen because the requirements were not specified by rule.

MOTION **Rep. Smith (30)** moved to **approve Docket No. 07-0107-0701; motion carried on voice vote.**

Docket No. 07-0206-0701 **Mr. Keys** presented **Docket No. 07-0206-0701**, which defines the circumstances where sidewall venting may be utilized in plumbing installations. The rule also allows for limited usage of air-admittance valves where traditional venting methods are impractical. Mr. Keys said the rule

broadens the plumbing bureau's regulations to allow for application of newer technologies and devices.

MOTION **Rep. Durst** moved to **approve Docket No. 07-0206-0701**; **motion carried on voice vote.**

Docket No. 07-0301-0701 **Mr. Keys** presented **Docket No. 07-0301-0701**, which resulted from the adoption of the 2006 International Building Code by rule last year. Mr. Keys testified that when this rule was considered in the Senate last week, a problem was brought forward. Mr. Keys explained that **House Bill 137** was meant to adopt the 2006 version of the International Energy Code, but the bill inadvertently re-adopted the 2003 version of the Code. Mr. Keys said this oversight will be addressed by adding language to a pending RS from the division. He said the Senate Commerce Committee has chosen to withhold approval of this rule docket, pending the legislative action.

MOTION **Rep. Collins** moved to **HOLD Docket No. 07-0301-0701 in committee, subject to the call of the Chair**; **motion carried on voice vote.**

Docket No. 07-0402-0701 **Mr. Keys** presented **Docket No. 07-0402-0701**, which adopts the current versions of the elevator codes that will apply to elevators and lifts installed. Mr. Keys explained that when the Elevator Safety Act was enacted a few years ago, it did not stipulate which versions of the code would be in effect. The division has been trying to clear up the resulting confusion by adopting the latest version of the code. Mr. Keys pointed out that there are new technologies in the elevator field which are addressed in the new version of the code. He said elevators are inspected based on the date of the installation of each particular elevator.

MOTION **Rep. Collins** moved to **approve Docket No. 07-0402-0701**; **motion carried on voice vote.**

Docket No. 07-0501-0701 **Mr. Keys** presented **Docket No. 07-0501-0701**, which will facilitate the enforcement of changes to the subcontractor naming requirements adopted last year in **House Bill 139**. This proposed rule consolidates two existing categories that involve HVAC work into one clearly-defined HVAC category to be included in the naming requirement.

MOTION **Rep. Durst** moved to **approve Docket No. 07-0501-0701**; **motion carried on voice vote.**

Docket No. 07-0701-0701 **Mr. Keys** explained that the next three dockets are all dealing with HVAC installations. The first, **Docket No. 07-0701-0701**, establishes the requirements for an HVAC Specialty Hearth Installer license. Mr. Keys said the prior rule dealing with this specialty specified one particular training program that was acceptable, but the industry realized this was not workable. The new rule allows different educational entities, including community colleges, to offer course work for this HVAC specialty.

Docket No. 07-0701-0702 **Docket No. 07-0701-0702** establishes a specialty license for installers of waste oil heating equipment. Mr. Keys testified that when the HVAC Board was established a few years ago, the waste oil heating industry didn't receive any notification so they didn't apply for any grandfathering provisions. This rule will recognize the waste oil heating industry as a specific part of the

HVAC industry. He explained that these contractors treat waste oil from automobiles and convert it into a usable product which can effectively heat buildings.

**Docket No.
07-0701-0703**

Mr. Keys presented **Docket No. 07-0701-0703**, which establishes an HVAC specialty license for fuel gas piping installers. Mr. Keys said fuel gas piping currently can be installed by either a journeyman plumber or a journeyman HVAC license holder. He explained that the HVAC license act has been in place for only a few years and the HVAC Board has agreed to a number of specialty licenses for certain limited tasks. He said this rule should be the last request for specialty licensing in this field.

MOTION

Rep. Durst moved to **approve** all three HVAC rules, namely, **Docket Nos. 07-0701-0701, 07-0701-0702, and 07-0701-0703. Motion carried on voice vote.**

ADJOURN

Chairman Black announced that the committee will not meet on Friday, February 1, 2008. There being no further business to come before the committee, the meeting was adjourned at 2:25 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 31, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Reps. Snodgrass, Rep. Anderson

GUESTS: Dennis Bostwick, John Buck, Myrna Gordon, Tana Cory, Michael Larsen, Roger Hales, Scott Stingley, Anthony Paladis

Meeting was called to order at by **Chairman Black**. **Rep. Smith (30)** moved to **approve** the minutes of January 29 as written; **motion carried on voice vote**.

RS 17327C1 **Michael Larsen**, Consumer Finance Bureau Chief at the Department of Finance, presented **RS 17327C1**, which amends the Idaho Escrow Act. Mr. Larsen said the legislation will add consumer restitution and other civil remedies as measures the Department can seek to enforce its regulations. It will also allow escrow trust fund accounts to be established at financial institutions approved by the Director, changing the current requirement that the financial institutions be "located" in Idaho.

Answering committee questions, Mr. Larsen said that a considerable amount of escrow business is conducted on the internet, and the requirement to establish accounts only at institutions located in Idaho has proven to be cumbersome for companies like Escrow.com. He noted that criminal penalties appear elsewhere in the Idaho Escrow Act but are not included in this particular section. Mr. Larsen said it is the intention of his department to license all escrow operators who engage in escrow activities in Idaho, whether or not they are located within the state. He acknowledged the difficulty of identifying all those companies, but said the department will make an effort to subject them to Idaho's regulations and will take action against companies if they engage in unlicensed activities.

MOTION **Rep. Durst** moved to **introduce RS17327C1**; **motion carried on voice vote**.

RS 17342 **Mr. Larsen** presented **RS 17342**, which will add a mortgage retail lending exemption for companies already licensed under the Idaho Residential Mortgage Practices Act, and thus will remove an onerous dual licensing requirement. It will also eliminate a restrictive and unnecessary limitation that precludes a company from relocating more than five miles from its initial licensed location. Mr. Larsen explained that the \$145,000 reduction in annual revenue is the result of eliminating the number of licenses that will be

issued under the Idaho Credit Code.

MOTION **Rep. Mathews** moved to **introduce RS 17342; motion carried on voice vote.**

RS 17417 **Mr. Larsen** presented **RS 17417**, which amends the Idaho Residential Practices Act. He listed the seven changes encompassed in this legislation. Specifically, it will: 1) eliminate a \$10,000 individual surety bond requirement for mortgage loan originators; 2) enable the director to adopt a pre-license test requirement by rule; 3) clarify that the definitions of “mortgage lending activities,” “mortgage brokering activities,” and “loan origination activities” include engaging in activities with the expectation of compensation or gain; 4) clarify that the Idaho Residential Mortgage Practices Act applies to loans on all one- to four-family dwellings, regardless of occupancy; 5) repeal the requirement that mortgage broker/lender licensees maintain the original licenses of their employed loan originators; 6) repeal a requirement that loan originator licenses be posted on-site by the employing mortgage broker or lender; and 7) amend the annual mortgage license renewal dates to December 31, to promote uniformity with the nationwide mortgage licensing system. Mr. Larsen told the committee that Idaho just joined a nationwide mortgage licensing system in January of this year.

In response to committee questions, Mr. Larsen explained that the pre-license testing requirement is similar to those in other states and is an effort to improve the knowledge and professionalism of mortgage lenders and mortgage brokers. He said he would bring further information regarding the licensing and associated fees, which will be developed through the rulemaking process. Mr. Larsen said the department is dropping the \$10,000 bond requirement because it has not proven effective in providing protection and it generates an enormous amount of work for the department. It is hoped that the pre-license testing requirement will supplant the bonding requirement. He reported there have been no claims on any bonds since the requirement went into effect in 2006. He also said it is preferable to incorporate the newest version of federal law by administrative rule rather than by changing statutes each year.

MOTION **Rep. Collins** moved to **introduce RS 17417; motion carried on voice vote.**

RS 17430C1 **Mr. Larsen** presented **17430C1**, proposed amendments to the Idaho Collection Agency Act. This legislation will establish uniformity of licensing requirements for collection agencies operating in Idaho, whether they are based inside or outside the state. It will also eliminate an in-state office requirement and replace a testing requirement with an experience requirement for office managers. Other changes include: 1) repeal of an outdated \$2,500 net worth requirement; 2) clarification that an existing \$20 annual fee applies to the solicitors/agents of all licensees; 3) elimination of one of the two surety bonds for collection agencies; 4) permission for collection agencies to charge a convenience fee when debtors make electronic account payments; 5) provision of a definition for “credit repair organization” and implementation of requirements and restrictions on such companies; and 6) repeal of the requirement that credit and debt counselors in Idaho be non-profit 501(c)(3) charitable organizations. Mr. Larsen said this legislation is a fairly extensive rewrite of the Idaho Collection Agency

Act.

In committee discussion, Mr. Larsen said the intent of the proposed changes is to level the playing field for collection agencies doing business in Idaho. Currently, local businesses have to meet requirements and obligations that are not applied to competitors outside the state. He said there are about 60,000 individuals names as solicitors and callers for collection agencies, and most of those are out of state. Mr. Larsen also addressed concerns expressed about the elimination of the nonprofit status for credit counseling services, saying the department does not think it is justifiable to prohibit for-profit counseling services from doing business in Idaho. He said he would try to bring information about for-profit versus nonprofit credit counseling services when the bill is before the committee for a full hearing.

Responding to further committee questions, Mr. Larsen said the proposed legislation has been discussed with members of the Idaho collection agency industry, who will testify in favor of the bill. Mr. Larsen noted that companies who offer credit counseling and also advertise that they can improve a customer's credit score are automatically brought under the Idaho Collection Agency Act. Companies that advertise only mortgage rescue services are not under the authority of the Department of Finance. Mr. Larsen said the department had been searching for model legislation, with a view toward providing some degree of uniformity among state regulations. To his knowledge, however, there is no such model legislation available at the present time. He said the department relies largely on complaints in order to identify companies that are in violation of regulations; in addition, they do perform compliance examinations from time to time, and can issue cease-and-desist orders and stop letters.

MOTION **Rep. Collins** moved to **introduce RS 17430C1; motion carried on voice vote.**

RS 17363 **Roger Hales**, an attorney appearing on behalf of the Idaho Contractors Board, under the Bureau of Occupational Licenses, presented **RS 17363**. This bill will change the compensation for members of the board to allow compensation at the rate of \$50 per day for conducting board business. Currently board members are not paid for attending meetings. Mr. Hales said the \$50 amount is probably an average among the Bureau's boards, which range from a low of \$25 to a high of \$75.

MOTION **Rep. Durst** moved to **introduce RS 17363; motion carried on voice vote.**

RS 17366 **Mr. Hales** presented **RS 17366**, on behalf of Idaho Real Estate Appraisers. This legislation will add consideration of action against a licensee in another state as grounds for discipline and will add the right to refuse to issue or renew a license under disciplinary proceedings in order to protect the public. It will authorize the board to apply other types of disciplinary measures and will allow them to require additional education. Mr. Hales said these measures are consistent with the provisions of other boards in the Bureau of Occupational Licenses. The proposal also specifies that the examination fee will be the amount charged by the national examining entity. Mr. Hales said he will bring additional information to the committee when the bill is heard.

MOTION **Rep. Rusche** moved to **introduce RS 17366; motion carried on voice vote.**

RS 17371 **Mr. Hales** presented **RS 17371**, on behalf of the Board of Morticians. He explained that the bill will add an experience requirement for licensure as a mortician, to include assisting in making 25 funeral arrangements and conducting at least 25 funerals. Mr. Hales said this change is fully supported by the funeral association as well as the board. Mr. Hales explained that the additional requirements apply to a mortician's license because the same requirement already exists as part of the funeral director's training.

MOTION **Rep. Bilbao** moved to **introduce RS 17371.**

In response to a committee question, Mr. Hales clarified that in order to conduct a funeral or to assist in making funeral arrangements, one must be a licensed mortician, a funeral director, or a licensee in training.

MOTION **Chairman Black** called for a vote on the motion to **introduce RS 17371; motion carried on voice vote.**

RS 17419 **Mr. Hales** presented **RS 17419**, on behalf of the Board of Barber Examiners. This bill will remove the language which requires the examination to be conducted by the board so that a third-party examination administrator may be used. It will still allow the board to conduct exams themselves if they want, but it will also allow a third-party administrator, at the board's discretion. Mr. Hales said currently the examinations are administered only in March, July and November, and are given in Boise. Utilizing a third-party administrator means the exam will be given monthly in three locations, Post Falls, Boise and Pocatello. Mr. Hales noted this legislation has been requested by the Board of Barber Examiners.

In response to committee questions, Mr. Hales said the term "good moral behavior" as a requirement for licensure is still a fairly standard concept, and he said the meaning of "good moral behavior" is often defined by the court system. He also said the current testing fee of \$75 may rise to about \$99 or \$100 if the board chooses to use a testing organization.

MOTION **Rep. Durst** moved to **introduce RS 17419; motion carried on voice vote.**

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 5, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

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

GUESTS Barbara Jorden, Allyn Dingel, Bob Corbell, John Mackey, Steve Tobiason, Kent Day, Jim Trent, Paul Jackson, Phil Barber, Shad Priest, Woody Richards, Julie Taylor, Jack Lyman, McKinsey Miller, Bill Deal, Jerry Peterson

Vice Chairman Henderson called the meeting to order at 1:30 p.m. **Rep. Rusche** moved to approve the minutes of the January 31 meeting as written; **motion carried on voice vote.**

H 429 **Rep. Mathews** presented **H 429**, a bill that will require insurance companies to offer underinsured motorist insurance to policyholders. Rep. Mathews said this will make auto insurance more transparent by allowing the insured better value, clarity, and choice in insurance coverage. The legislation defines the term "underinsured motorist coverage" and allows the insured to reject, in writing or electronically, the underinsured motorist coverage. The bill also requires the insurance company to provide a summary statement explaining uninsured and underinsured motorist coverages; this statement must be approved by the Director of the Idaho Department of Insurance. Rep. Mathews stated that sometimes people who have uninsured motorist coverage assume that they also have underinsured coverage, which is not always the case. H 429 has an effective date of January 1, 2009, to allow sufficient time for insurance companies selling policies in Idaho to meet the new requirements.

Barbara Jorden, appearing on behalf of the Idaho Trial Lawyers Association, testified on **H 429**. She stated the ITLA does not support the bill, nor does it oppose the bill. She said her organization believes this legislation is a good first attempt but it still allows insurance companies to sell "phantom" insurance, meaning that the amount of an insured's coverage is reduced by the amount of the other party's coverage. She does not believe that H 429 represents good public policy.

Steve Tobiason, appearing on behalf of PCI, Property & Casualty Insurance Corporation, testified **in favor of H 429**. Mr. Tobiason explained that he has only recently become involved in this legislation, taking over for Woody Richards, who dealt with similar efforts during the last legislative session, in S 1125. Mr. Tobiason said it is his understanding that, from the insurance carriers' point of view, H 429 is a compromise from last year's bill, which was

simply a notification bill. H 429, on the other hand, is clearly a mandated coverage bill because it states that all carriers must offer underinsured motorist coverage. Mr. Tobiason pointed out that, since uninsured motorist coverage is already mandated, this legislation will simply apply the same requirement to underinsured coverage. Another key point, according to Mr. Tobiason, is that the consumer has an option to refuse the coverage if he or she wishes to do so. He noted that, in order to make an informed choice in the matter, consumers need good information regarding the nature of this coverage and the options available. The responsibility to provide that information falls to the Director of the Department of Insurance, who will work with various parties to develop explanatory statements to be given to consumers.

Mr. Tobiason briefly explained the three different types of underinsured coverage offered in Idaho, namely: strict difference in limits, modified difference in limits, and excess coverage. He explained that "excess coverage" is already available in Idaho, although it is two to three times more expensive. "Excess coverage" means that if the policyholder with \$100,000 of coverage is involved in an accident with someone who has \$50,000 of coverage, the coverages would "stack" so there would be a maximum payment of \$150,000 for damages. Mr. Tobiason said H 429 gives consumers a choice in their insurance coverage; they can opt to purchase basic coverage at a lower cost, or purchase more extensive coverage for a higher premium.

Responding to committee questions, Mr. Tobiason said the reason for the rejection of coverage to be in writing or in electronic form is to assure that there is a clear record in case there is a dispute at a later time regarding the rejection of coverage. He said that after the January 1, 2009 effective date, automobile policies will automatically include underinsured motorist coverage unless the insured opts out. Mr. Tobiason estimated the additional premium cost per six-month period to add underinsured motorist coverage is probably in the range of \$3 to \$4, and the cost of "stacking" excess coverage would be in the range of \$10 to \$12 for six months.

Rep. Mathews was recognized to respond to questions from the committee. He said the bill will require that disclosure statements be given to insureds at their policy renewal dates. He also said that any insurance company offering automobile policies in Idaho, including those doing business via the internet, will fall under the requirements of this legislation.

MOTION

Rep Patrick moved to send **H 429** to the floor with a **DO PASS recommendation**. In support of the motion, Rep. Mathews said this bill offers a free-market solution and strikes a balance between two previous bills that attempted to deal with underinsured motorist insurance coverage. **Motion carried on voice vote.**

RS 17375

Steve Keys, Deputy Administrator of the Division of Building Safety, presented **RS 17375**. Mr. Keys said this legislation adopts the 2006 International Mechanical Code, 2006 International Fuel Gas Code, and Parts V and VI of the 2006 International Residential Code. He explained that these codes form the regulatory basis for the HVAC industry in Idaho, and this bill will bring the codes into conformity with the 2006 versions of other international codes already adopted. It also gives the HVAC board authority

to revise and adopt later versions of these codes. Mr. Keys said another provision of the legislation is to change the definition of agricultural buildings to farm buildings, which will be consistent with the definition referenced in the International Building Code.

In response to committee questions, Mr. Keys explained that some local jurisdictions across the state have questioned the definition of an "agricultural" building and have asked for a definition that will be consistent with the definition used in municipal codes. He said the changes will be implemented by rule, and the Legislature will see these changes next year as new rules are developed and submitted for approval. Mr. Keys also said the problem being addressed by RS 17375 is becoming more common in the state. The committee discussed the specific language in the RS, noting that a "farm" is not necessarily a "structure" as the definition states.

MOTION

Rep. Rusche moved to **introduce RS 17375; motion carried on voice vote.**

**RS 17401C1
RS 17409
RS 17410**

Mr. Keys asked the committee to consider **RS 17401C1, RS 17409 and RS 17410** together, since they deal with apprenticeship requirements for electricians, plumbers, and HVAC installers, respectively. **RS 17401C1** establishes a five-year registration interval for electrical apprentices, which should be sufficient for most apprentices to complete their training and transition to journeyman status. Mr. Keys said that currently an annual registration is required and many apprentices fail to renew in a timely manner, which results in the apprentice losing credit for work experience. In addition, it creates additional work for the division staff to expedite renewals. Mr. Keys said this legislation dovetails with parallel legislation in RS 17409 and RS 17410.

Responding to questions from the committee, Mr. Keys reported that the real cost for creating these licenses is somewhere around \$20 to \$25, although he does not have hard numbers on annual costs. He said the legislation will allow for a five-year renewal period for electrical specialty licenses, the idea being that licensees will be able to complete their apprenticeships within the five-year time period. If they do not complete the apprenticeship in five years, they would have to renew their registration for another five years. He also said none of the underlying educational requirements are changed by this legislation.

MOTION

Rep Killen moved to **introduce RS 17401C1, RS 17409 and RS 17410; motion carried on voice vote.** **Rep. Hagedorn** voted in opposition to the motion.

RS 17406

Mr. Keys presented **RS 17406.** This legislation establishes new limits on public works licenses in Idaho, establishing a new "unlimited" category for very large public works projects. Mr. Keys said currently the highest licensing category is currently AAA, which is a category for work projects over \$3 million. The new unlimited category will apply to all projects above \$5 million. The legislation also puts in place higher financial criteria to qualify for the "unlimited" license.

Responding to questions from the committee, Mr. Keys said Idaho is one of

only a few states that issue separate licenses for public works construction. He also noted that the new classification system expands the limits for the smaller classifications as well; for example, a Class C license used to be limited to \$100,000 jobs, but now will be limited to \$200,000.

- MOTION** **Rep. Rusche** moved to **introduce RS 17406; motion carried on voice vote.**
- RS 17408** **Mr. Keys** presented **RS 17408**, which expands the definition of a “responsible managing employee” (RME) to include the representatives designated by installers, manufacturers, and service companies. These were inadvertently excluded by the RME definition adopted last year in House Bill 100.
- MOTION** **Rep. Collins** moved to **introduce RS 17408; motion carried on voice vote.**
- RS 17411** **Mr. Keys** presented **RS 17411**, which eliminates the exemption from licensing for water treatment installers. As a result of this legislation, all installers of water treatment equipment will be required to hold a certificate of competency. The legislation also incorporates a standard definition for farm buildings.
- MOTION** **Rep. Hagedorn** moved to **introduce RS17411.**
- SUBSTITUTE MOTION** **Rep. Rusche** offered a **substitute motion**, to **introduce RS 17411** with one **correction**: that the word “building” be inserted after the word “farm” on page 1, line 19. **Motion carried on voice vote.**
- MOTION TO RECONSIDER** **Rep Mathews** moved to **reconsider RS 17375; motion carried on voice vote.**
- MOTION** **Rep Mathews** moved to **introduce RS 17375**, with the same **correction**: that the word “building” be inserted after the word “farm” on page 1, line 37. **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 Frank Henderson
Vice Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 7, 2008

TIME: 1:30 p.m.

PLACE: Room 238

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen.

**ABSENT/
EXCUSED:** Bilbao, Anderson, Crane, Bowers, Smith (30), Rusche, Durst

GUESTS: Mike Kane, ICRMP; John Mackey, United Heritage; Jeremy Chou, G.E., Robert Vande Merwe, Kris Ellis; IHCA, Miguel Logarrele, ACAR.

Chairman Black called the meeting to order at 1:35 p.m. There were no minutes to be read.

RS 17731 **Mike Kane**, Idaho Counties Risk Management presented **RS17731** which allows Domestic Reciprocal Insurers comprised exclusively of political subdivisions of the state of Idaho and which insure against risk pertaining to property and casualty claims to invest funds as described in Title 41, Chapter 7, Idaho Code. Mr. Kane replied to questions from the committee members explaining this bill will assist the vast majority of companies to invest more conservatively as other insurers are permitted to do.

Representative Mathews moved to **introduce RS 17731; motion carried on voice vote.**

RS 17757 **Jeremy Chou**, G.E., presented **RS17757**, Currently Idaho law only allows consumers to purchase service contracts for damage resulting from manufacturing defects or by normal wear and tear as opposed to defects caused by accidental damage. In addition, consumers often assume that service contracts include coverage for damage resulting from an accident or from a power surge. This legislation allows a manufacturer to provide service contract coverage for the repair, replacement, or maintenance of a product for accidental damage or damage resulting from a power surge, not just for manufacturing defects or normal wear and tear. This bill was reviewed with the Idaho Department of Insurance and the Attorney General. Questions were submitted regarding the possibility of additional insurance premiums being more expensive to the consumer. It was concluded the consumer will have the option of additional coverage. An inquiry regarding what precludes the vendors from writing additional coverage insurance for a stand-alone product was discussed. Mr. Chou commented that the vendors would have to go into a regulatory situation and that would not be feasible.

Representative Killen moved to **introduce RS 17757. Motion passed on a voice vote.**

RS 17787 **Karen Ellis**, Idaho Health Care Association presented **RS 17787**. This bill addressed the Residential Care Licensing Board exam (NAB) and applicants for licensure. The exam does not test the applicant's knowledge of the

rules and regulations of Idaho, as required by law. This change confirms the importance of the applicant's knowledge of the rules and regulations in Idaho and allows the board flexibility in testing to these standards. The board intent of this legislation is to acquire approval of other exams that will meet the criteria of this law. Headmasters, the company who developed the CNA exam in Idaho, has agreed to develop, free of charge, an exam for a Residential Care Administrators that will test the applicants' knowledge of Idaho rules and regulations. The committee members discussed the testing procedure and who will give the tests. The Bureau of Occupational Licenses supervises the testing with most of the exams given regionally.

Representative Hagedorn moved to introduce **RS17787**. **Motion passed on a voice vote.**

RS 17840

Representative Patrick presented **RS17840**. This legislation changes the size of real property that is eligible to be financed with a deed of trust in Idaho from forty (40) acres to eighty (80) acres, and clarifies the eighty (80) acre limit. Mr. John Eaton requested a change of wording on the SOP. Chairman Black concurred to the change.

MOTION:

Representative Collins moved to **introduce RS17840** with the edited SOP.
Motion passed on a voice vote.

ADJOURN:

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

Representative Black
Chairman

Peggy Heady
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** February 11, 2008
- TIME:** 1:30 p.m.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen
- ABSENT/
EXCUSED:** None
- GUESTS:** Jerry Peterson, Benjamin Kelly, Toni Lawson, Jim Trent, Lyn Darrington, Brad Brady, Heidi Low, Dawn Justice, Pat Collins, Julie Taylor, Woody Richards, H. Dean Summers, Steve Tobiason, Rep. Phylis King, Lynn Tominaga, Paul Jackson, Tim S. Olson, Jack Lyman, Ron Reese, Rep. Wendy Jaquet, Lee McCormick, Jessica McDonald, Val Brooks, Roger Hales, Steve Millard, Blake Jones, Greg Jones, Rick Horner, Bruce VanCamp.
- Chairman Black called the meeting to order at 1:30 p.m. There were no minutes available to approve. Chairman Black announced that Rep. Phylis King would be recognized to present RS 17781C1 first on today's agenda, since she has another appearance scheduled.
- RS 17781C1** **Rep. King** presented **RS 17781C1**, saying the proposed legislation grew out of a governor's committee organized to study problems associated with mobile home park closures. She said spiraling land values have led mobile home park owners to consider selling their properties to developers, which displaces tenants. She noted that in the past few years 11 mobile home parks have been closed in Coeur d'Alene and Boise, and 15 more are slated for closure. RS 17781C1 will allow a tenant association in a mobile home park to have the first right of refusal to purchase the park on the same terms as another offer of purchase. The bill will give the tenant association 90 days to make its offer. Rep. King said she will bring more details to the bill hearing, if this RS is printed.
- MOTION** **Rep. Killen** moved to **introduce RS 17781C1; motion carried on voice vote.**
- RS 17883** **Steve Tobiason**, representing the Idaho Association of Health Plans, a group of seven health plan member companies that provide the majority of coverage in Idaho, presented RS 17883. Mr. Tobiason said this legislation is intended to be a consumer-friendly bill, providing a first step to some level of transparency for consumers when they get medical treatment. The legislation will require that written notice be provided stating whether their provider is a part of their health care network or not. If not, the notice will inform the patient that he or she may be billed for the remaining balance. The consumer must also be informed that an inquiry can be made of the provider or the insurance company via an 800 number or an internet site.

There is also a requirement for providers to inform their consumers if the network relationship changes. Mr. Tobiason pointed out that the requirements do not apply in an emergency situation, and the provisions do not cover indirect health care services.

MOTION

Rep. Patrick moved to **introduce RS 17883; motion carried on voice vote.** Rep. Rusche requested that his name be removed as the “contact” on the bill’s Statement of Purpose.

RS 17789C1

Rep. Wendy Jaquet presented **RS 17789C1.** She introduced **Ron Reese**, owner of Ree-Construction, a restoration company in the Wood River Valley, to discuss this proposed legislation dealing with insurance practices in the field of damage claims adjustments. Mr. Reese said this legislation is intended to guard against certain practices which are anti-consumer and anti-small business. He mentioned the practice of “steering,” in which an insurer influences or compels the use of a particular service provider. Another unfair practice, according to Mr. Reese, is delaying payment of claims. He stated that delays of up to 90 days are fairly routine in the restoration construction business, whereas the auto body and health insurance industries set time limits for payment of claims. Mr. Reese also discussed “undisclosed discounts” which provide an incentive to steer business back to preferred vendors; he stated this creates a conflict of interest. Mr. Reese said the proposed legislation will help put the repair industry on an equal footing with other industries. He said similar legislation passed in Colorado last year.

In response to committee questions, Mr. Reese said the “free and unfettered choice” wording in the bill will allow consumers to understand that they have a choice to use whomever they want to do repair work. He said the bill will allow the use of a network of contractors who work for a discounted fee. Rep. Jaquet said the Department of Insurance has seen this legislation but they cannot support it because they are a regulatory agency.

MOTION

Rep Rusche moved to **introduce RS 17789C1; motion carried on voice vote.**

RS 17888C1

Ken McClure, representing the Idaho Medical Association, presented **RS 17888C1.** Mr. McClure said this legislation will address the problem of “silent PPOs” (Preferred Providers Organizations). A PPO is a group of providers who agree to discount their usual and customary fees in order to be included in the network of preferred providers with a particular insurer. Mr. McClure said this legislation grew out of concerns expressed by the health care task force concerning abuses of the PPO system. The abuse involves some health care insurance companies, none of which are Idaho insurers, obtaining the use of a PPO contract, through device or trickery, and then selling the contract to someone else. Mr. McClure said sometimes the assignment is accomplished almost surreptitiously, such as by use of a simple endorsement statement on the back of a check. The bill will clarify that PPO agreements may not be assigned to third parties without the consent of both parties to the agreement, and will require that the assignment appear in conspicuous and plain language. He said the legislation was developed in cooperation with the Idaho Association of Health Plans, and he is not aware of any opposition.

MOTION **Rep. Mathews** moved to **introduce RS 17888C1**. Responding to committee questions, Mr. McClure said most PPO agreements are contracts of adhesion and are presented on a take-it-or-leave-it basis, leaving the physicians with little right to argue about the terms. He said the bill will simply specify that the contract can't be sprung on one party by the other.

VOTE ON MOTION **Chairman Black** called for a vote on the motion to **introduce RS 17888C1**; **motion carried on voice vote.**

RS 17874 **Lynn Tominaga** presented **RS 17874**. He said this RS changes legislation dealing with modified local improvement districts. Mr. Tominaga said the Lindsey Lateral Water Users Association has been trying to get a pressurized water system into its neighborhood, and current law requires unanimous agreement of all property owners in a local improvement district in order to allow people to opt out of the LID. Mr. Tominaga said this requirements has proven to be virtually impossible to meet, since some parties remain unreachable even after repeated attempts to contact them. RS 17874 would provide an alternative to the requirement of having unanimous approval from all those in the district.

Responding to comments and questions from the committee, Mr. Tominaga said the legislation will allow a municipality to employ either of two provisions, namely, either unanimous agreement or a majority vote of the members of the governing body. He said he would have no problem if the legislation is referred to State Affairs Committee or Local Government Committee, either of which would be a more germane committee.

MOTION **Rep Collins** moved to **introduce RS 17874** and asked that it be referred to State Affairs Committee; **motion carried on voice vote.**

RS 17807 **Rep. Margaret Henbest** presented **RS 17807**. She said this legislation is the result of concerns and testimony heard over the past year from constituents as well as the health care task force, about increased rates of premium increases for health care insurance. This RS will repeal the current section that identifies restrictions related to health insurance premium rates and replace it with a section allowing for unapproved health insurance premium rates only to the degree of medical inflation for the western states in the Consumer Price Index (CPI). Beyond that, insurers will have to petition the Department of Insurance for approval of their proposed rate increases, and they will be allowed to provide data in support of such petitions. She said the director of the department does not think this legislation will increase the work load for the department, and it may in fact simplify the process. She said the intent of the legislation is to keep insurance premium rates tied to the amount of medical inflation in the CPI.

Responding to committee questions, Rep. Henbest said the bill does not guarantee rate increases equal to the medical inflation rate; rather, the language says the increases "shall be no more than the rate of inflation." She said the medical inflation rate is available monthly on the U.S. Department of Labor website, and an annual rate is published at the end of January for the previous calendar year. She said she believes the legislation may result in rates staying the same, increasing or decreasing. She said currently insurance companies file rate increases with the Department of Insurance but they are not required to ask for approval. This bill will require

them to justify their rate hikes. Part of the justification may be the increased costs of advances in medical technology, among other factors. Rep. Henbest said this is not unlike the manner in which public utilities are required to justify their rate hikes. She said the most current figure she could provide for medical inflation is for the month of December 2007; that figure was 5.1. She did not have the cumulative 2007 figure.

MOTION

Rep. Durst moved to **introduce RS 17807**.

In committee discussion it was noted that unlike the insurance industry, in which there is a lot of competition, utilities are monopolies. Some committee members said they thought free market competition between insurance companies should regulate how much premiums rise. To some, the bill represents a government intrusion into private business and an effort at price-fixing insurance products. Others pointed out that in Idaho there are two insurers, Blue Cross and Blue Shield, who dominate the small group and individual insurance markets, unlike larger states like California, Washington and Oregon, where there are dozens of carriers in these markets. This bill goes from file-and-use to file-and-approve methodology, and both methods are used throughout the country, successfully and unsuccessfully.

Some committee members expressed the opinion that the matter of insurance premium increases is an important issue and this bill, if printed, will allow a full investigation and discussion of the problem. Members said they would welcome information from the Department of Insurance as well as from insurance companies and medical associations.

VOTE ON MOTION

Chairman Black called for a vote on the motion to **introduce RS 17807**. **Motion carried on voice vote. Reps. Henderson, Bilbao, and Patrick voted in opposition to the motion.**

RS 17907

Pat Collins, an attorney representing the Idaho Bankers Association, presented **RS 17907**. Mr. Collins said the bill addresses a number of housekeeping issues and clarifies when a bank may be considered the victim of a crime for restitution purposes. He said the Idaho Bank Act needs some modification, and he reminded the committee that some modifications were effected by last year's House Bill 136.

Mr. Collins outlined the seven major provisions contained in RS 17907, namely: 1) it makes clear that in the event of any conflict between the Idaho Bank Act and the general business corporation laws, the Bank Act controls; 2) it eliminates an obsolete requirement that banks file articles of incorporation in the county recorder's office; 3) it eliminates obsolete capital requirements for establishing branch banks; 4) it makes bank reserve requirements in Idaho consistent with federal requirements; 5) it corrects obsolete references to reporting periods; 6) it clarifies the standards applicable to a bank's request for permission from the Director of Finance to repurchase some of its own capital stock, and it removes the arbitrary limit on the amount that may be repurchased and the time period it may be retained; and 7) it corrects an obsolete reference to the Uniform Consumer Credit Code.

MOTION

Rep. Patrick moved to introduce **RS 17907**; **motion carried on voice vote.**

Chairman Black asked **Vice Chairman Henderson** to report the recommendations of the administrative rules subcommittee. After receiving Rep. Henderson's report, Chairman Black noted that the recommendations were before the full committee for its consideration.

**Docket No.
14-0101-0701**

Roger Hales, appearing on behalf of the Board of Registration of Professional Geologists, appeared before the committee to answer any questions concerning **Docket No. 14-0101-0701**. Mr. Hales briefly reviewed the provisions of the docket, saying it dealt with office and contact information for the board, definitions, and requirements for geologists-in-training. He said the rule also clarifies 1) the use of a national exam; 2) the fact that the exam fee is non-refundable; and 3) the conditions regarding use of the board's seal or stamp.

MOTION

Rep. Chadderdon moved to **approve Docket No. 14-0101-0701**, as recommended by the Rules Subcommittee. **Motion carried on voice vote.**

**Docket No.
24-0801-0701**

Mr. Hales appeared before the committee on behalf of the Board of Morticians to respond to questions concerning **Docket No. 24-0801-0701**, which clarifies examination requirements for funeral directors and streamlines the application process for facility licensing.

MOTION

Rep. Durst moved to **approve Docket No. 24-0801-0701**, as recommended by the Rules Subcommittee. **Motion carried on voice vote.**

**Docket No.
24-1801-0701**

Mr. Hales then addressed **Docket No. 24-1801-0701**, rules of the Real Estate Appraiser Board. This rule extends the period of time within which to meet new education and experience requirements for real estate appraisers, which took effect on January 1 of this year. The rule also makes minor changes to continuing education requirements. Mr. Hales said there have been no concerns expressed about the rule changes.

MOTION

Rep. Chadderdon moved to **approve Docket No. 24-1801-0701**, as recommended by the Rules Subcommittee. **Motion carried on voice vote.**

**Docket No.
24-2101-0701**

Mr. Hales presented **Docket No. 24-2101-0701**, rules of the State Contractors Board. This rule will allow the board to consider felony convictions when assessing an application. Mr. Hales said the rule is based on a similar one used by the Real Estate Commission. He said the association has not received any opposition to this rule.

MOTION

Rep. Mathews moved to **approve Docket No. 24-2101-0701**, as recommended by the Rules Subcommittee. **Motion carried on voice vote.**

**Docket No.
07-0102-0701**

Steve Keys, Deputy Administrator of the Division of Building Safety, presented **Docket No. 07-0102-0701**, rules dealing with fees for electrical inspections. Mr. Keys said the rule change results in fees that are comparable with inspections in other departments such as plumbing and HVAC. Mr. Keys said the rule also changes the hourly fee from \$40 per hour to \$65, which is more reflective of actual costs. He said these rules have been worked out over the past two years with the respective boards.

In response to a committee question, Mr. Keys said that these rules, taken together with those from the HVAC and plumbing boards, will actually result

in an overall reduction in revenue for the division. He said that from a property owner's perspective, the new rules will result in a net reduction in total inspection fees.

MOTION

Rep. Killen moved to **approve Docket No. 7-0102-0701. Motion carried on voice vote.**

**Docket No.
07-0106-0701**

Mr. Keys presented **Docket No. 07-0106-0701**, which adopts the latest edition of the National Electrical Code, with significant amendments by the board. Mr. Keys said suppliers and vendors have expressed serious doubts about the new code. The electrical board decided not to extend the requirement for arc interrupters to every bedroom in the house; he said this expansion would have added \$500 to the cost of a home. The board also decided to revert swimming pool requirements to the 2002 Code. Mr. Keys asked Mr. Jeff Fitzloff to respond to specific questions from the committee.

Jeff Fitzloff, Electrical Bureau Chief at the Division of Building Safety, responded to questions concerning the new requirement of tamper-resistant electrical receptacles. He said the use of such devices will add about \$50 to the cost of an average home's construction. He explained that these devices are designed to limit the ability of children to stick objects into receptacles and suffer burns. Mr. Fitzloff said GFI-protected receptacles do not offer the same level of protection to small children, since their threshold is five milliamps, and children can be harmed by current of only three milliamps. Mr. Fitzloff said the new receptacles will be readily available once the new law goes into effect, since many manufacturers are producing them.

Rep. Henderson noted that this particular rule from the Division of Building Safety was not heard in his subcommittee and he therefore asked if there was anyone else who wanted to testify on Docket No. 07-0106-0701.

Rep. Steve Kren testified in **opposition to Docket No. 07-0106-0701**, stating his opinion that there may be less expensive means to accomplish the same safety objective. He mentioned the use of plastic receptacle covers as an alternative, and he proposed that perhaps the regulation could be applied to only bedrooms rather than to the entire house. He requested that the Business Committee reject the rule and allow further work to be done on some middle ground solutions.

In committee discussion, **Mr. Keys** clarified that in the proposed rule the new electrical code will be adopted with the exception of certain sections, namely, the requirement of GFCI outlets throughout a house and the requirements for swimming pools.

Dennis Stevenson, Administrative Rules Coordinator, was recognized to answer further technical questions about the process available to the committee for rejecting certain portions of proposed rules. Mr. Stevenson said that generally most national codes are incorporated by reference, and an agency will adopt the code and then delete out certain sections if they wish. He said if a board perceives that an issue needs to be addressed by rule before the legislature meets next year, it can always issue a temporary rule, if the matter involves the health, safety or welfare of the public. Mr. Stevenson said it is definitely allowable for a legislative committee to delete sections of proposed rules which they do not wish to approve. Mr.

Stevenson also confirmed that this particular docket had been approved by the Senate Commerce & Human Resources Committee.

Mr. Keys responded to further committee questions, saying that a number of concerns surfaced during statewide hearings held on this rule. There were concerns about GFCI outlets for a whole house, concerns about the tamper-resistant devices, and concerns about the swimming pool rules. As a result, the division met with representatives of the homebuilders association and other interested parties, and the resulting rules were worked out after those consultations. The homebuilders agreed that they could accept the receptacle requirement since it added only about \$50 to a home's cost. He said the vote on this question was unanimous.

Mr. Stevenson stated that, in order to reject this rule, both the House and Senate will have to concur in its rejection by means of a concurrent resolution. Since it has already been approved in the Senate, it will be necessary to seek their concurrence in any resolution to reject.

MOTION

Rep. Rusche moved to **approve Docket No. 07-0106-0701**.

SUBSTITUTE MOTION

Rep. Crane offered a substitute motion, to **accept the rule with the exception of National Electrical Code Section 406.11**.

A discussion ensued regarding whether or not this was a proper motion, since it was unclear whether the committee can reject a specific portion of a code that does not actually appear in the rule. **Mr. Stevenson** said it is not something that has been done before; he said it is possible that the committee may have to add language to the rule, as opposed to rejecting a specific portion of the rule as it is currently written.

AMENDED SUBSTITUTE MOTION

Rep. Collins offered an **amended substitute motion**, to **hold Docket No. 07-0106-0701 to time certain**, to Tuesday, February 19. In support of the amended substitute motion, Rep. Collins said he would hope the committee would be able to determine, with the help of the administrative rules coordinator, what actions are available with regard to rejecting a portion of a rule. Chairman Black pointed out that, since the rule had already been accepted by the Senate, the time delay will also afford an opportunity to determine whether the Senate is willing to concur in any rejection by the House committee. **Amended Substitute motion carried on voice vote.**

Docket No. 07-0203-0701

Mr. Keys presented **Docket No. 07-0203-0701**, stating these rules deal with the new plumbing inspection and permit fees already discussed.

MOTION

Rep. Killen moved to **approve Docket No. 07-0203-0701; motion carried on voice vote.**

Docket No. 07-0205-0701

Mr. Keys presented **Docket No. 07-0205-0701**, a rule that will require a plumbing specialty license or a journeyman plumber license for water softener installations. Mr. Keys said this rule had been discussed across the state and the Division of Building Safety was not aware of any opposition until today. He said that several people from the water quality board had endorsed the rule change, so the opposition was surprising to him.

Brad Brady, President of the Idaho Water Quality Association, testified in

opposition to Docket No. 07-0205-0701. He explained that water treatment installers were granted exemptions from licensing requirements many years ago. He also said the 2003 requirement that new one- and two-family residences must be pre-plumbed for water softener installations was put in place without any consultation with the water treatment industry or its association members. Mr. Brady said his main objection to Docket No. 07-0205-0701 is that the education and testing requirements are excessive, given the scope of work involved. He said the result of these requirements will be to reduce competition and increase costs to the consumer. He said his organization is not opposed to specialty licensing, but they would like to work with the board to develop the rule. Mr. Brady showed the committee a list of penalties issued to plumbers in the state of Idaho during the last three years and noted that not one of them was for a water softener installer.

Responding to questions from the committee, Mr. Brady said the 72 hours of education in the new requirement is not his main concern, but the 18 months of on-the-job apprenticeship training is excessive. He suggested that a certified installer program could be implemented, similar to one used in a number of other states, to satisfy the education requirement. These programs are completed on one's own time schedule and would not be overly burdensome. Mr. Brady estimated that the proposed rules could result in an increased cost for water softener installations from the present \$100 to as much as \$300.

MOTION

Rep. Patrick moved to **reject Docket No. 07-0205-0701**, saying it seems to place undue regulations and costs on the consumer and pointing out that if he had to pay an electrician \$300 to install a water treatment system, he would simply install it himself.

Committee members expressed support for the motion to reject the rule, saying the experience requirement for the specialty license seemed excessive for a relatively uncomplicated procedure that many homeowners can perform correctly and safely. It was also pointed out that if water conditioner installers want to be involved in the rulemaking process, they should be invited to provide input.

Jerry Peterson, representing the Idaho Building Trades, testified **in favor of Docket No. 07-0205-0701**. Mr. Peterson said these rules have been under discussion for a number of years and the installers who are now voicing opposition had not made their opposition known before now. He said the plumbing board's agendas are posted on their website, as are the proposed rules.

During committee discussion, **Mr. Brady** said he did sense that his organization's members dropped the ball by not closely monitoring the plumbing board's website. He also said he thinks the board should take the initiative to notify interested parties about proposed changes and to ask for the input of those most directly affected, in this instance, the water softener installers. **Mr. Keys** said several people involved in water softener installations, including the owner of Kinetico in Meridian and the owner of a Culligan dealership, were represented in the development of this rule.

VOTE ON MOTION

On a roll call vote, the **motion to reject Docket No. 07-0205-0701 passed, 14-0-2**. Voting in favor: **Reps. Henderson, Collins, Bilbao, Chadderdon,**

Mathews, Crane, Patrick, Hagedorn, Bowers, Smith, Rusche, Durst, Killen, and Chairman Black. Reps. Snodgrass and Anderson were absent and excused.

**Docket No.
07-0207-0701**

Mr. Keys presented **Docket No. 07-0207-0701**, stating this rule provides that there will be no civil penalties for violations of the plumbing code.

MOTION

Rep. Collins moved to **reject Docket No. 07-0207-0701**. Responding to a question from the committee, **Mr. Keys** stated the division had not received many comments on this rule, and said the rule had been widely discussed at the plumbing board meetings.

**SUBSTITUTE
MOTION**

Rep. Durst made a **substitute motion to accept Docket No. 07-0207-0701**. A **roll call vote** on the substitute motion was requested. Substitute motion **failed, 3-9-4**. Voting in favor: **Reps. Rusche, Durst, and Killen**. Voting in opposition: **Reps. Henderson, Collins, Bilbao, Chadderdon, Mathews, Patrick, Bowers, Smith (30), and Chairman Black**. **Reps. Snodgrass, Anderson, Crane and Hagedorn** were absent and excused.

**VOTE ON
ORIGINAL
MOTION**

Chairman Black called for a vote on the original motion, to **reject Docket No. 07-0207-0701**. **Motion carried on voice vote**. **Reps. Rusche, Durst and Killen** voted in opposition to the original motion.

**Docket No.
07-0303-0701**

Mr. Keys presented **Docket No. 07-0303-0701**, rules governing the operation of the modular building board. This board was established in 2007 by Senate Bill 1155.

MOTION

Rep Killen moved to **approve Docket No. 07-0303-0701; motion carried on voice vote**.

**Docket No.
07-0701-0704**

Mr. Keys presented **Docket No. 07-0701-0704**, which reflects the changes to HVAC permit fees, as discussed earlier in the meeting during discussion of Docket No. 07-0102-0701.

MOTION

Rep. Killen moved to **approve Docket No. 07-0701-0704; motion carried on voice vote**.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 3:55 p.m. by Chairman Black.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 13, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Anderson

GUESTS Roger Hales, Tana Cory, Barbara Porter, Melissa Nelson, Myrna Gordon, John Buck, Keith Fletcher

Chairman Black called the meeting to order at 2:10 p.m. **Rep. Collins** moved to **approve** the minutes of the February 7 meeting as written; **motion carried on voice vote**. **Rep Killen** moved to **approve** the minutes of the February 11 meeting, with one correction: on page 3, the term "contracts of occasion" should read "contracts of adhesion." **Motion carried on voice vote**.

H 379

Ken McClure, an attorney representing the Idaho Society of Certified Public Accountants, presented **H 379**, revisions to the Idaho Accountancy Act. Mr. McClure said the bill contains a number of technical changes as well as two substantive changes. The first change removes the requirement that accountants notify the state board of accountancy if they are providing accounting services in the state of Idaho. Current business practices have made this provision impractical and unnecessary, according to Mr. McClure. He said the accounting profession, on a nationwide basis, has recognized that the actual physical location of an accountant is not particularly useful with regard to notification of the board of accountancy. Instead, the accountancy profession should be working toward a national standard for licensure and an agreement that an accountant can practice in other states so long as he or she is licensed in his or her principal place of business. The second major change contained in H 379 involves peer review procedures. Mr. McClure said that historically the accounting profession has done a good job at self-regulation. This bill will allow the use of peer review information for disciplinary action, if there is cause for such action.

In response to committee questions, Mr. McClure said there have been some attempts at the national level to place the profession of accountancy under some type of regulatory agency under certain circumstances, such as when their work involves publicly traded securities which fall under the SEC. He explained that candidates for the accountancy examination can now take the exam by computer so the provision for taking the exam prior to graduation is irrelevant. He also explained that the bill reduces the retirement age from 60 to 55 in order to allow earlier retirement age for accountants who may wish to move to "retired" status.

MOTION **Rep. Hagedorn** moved to send **H 379** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rusche** will sponsor the bill on the floor.

H 492 **Kris Ellis**, representing the Idaho Health Care Association, presented **H 492**, legislation dealing with licensing procedures for the administrators of assisted living facilities. Ms. Ellis said the legislation was developed in cooperation with the Bureau of Occupational Licenses. She said H 492 will allow the board flexibility in testing to Idaho's standards. She said the current examination is more heavily oriented toward general business knowledge, and the board intends to develop an exam that will test applicants' knowledge of relevant Idaho rules and regulations as well as their overall business knowledge.

MOTION **Rep. Bilbao** moved to send **H 492** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Bilbao** will sponsor the bill on the floor.

H 350 **Roger Hales**, an attorney representing the Board of Registration of Geologists, presented **H 350**. He said the bill's main purpose is to move the Board of Geology under the Bureau of Occupational Licenses, at their request. This move allows the Bureau to provide administrative support and other services to the geologists. Mr. Hales explained that various smaller boards in the state of Idaho are grouped under the Bureau in order to be able to take advantage of the support offered by the Bureau. He said each board's funds are deposited in the Bureau's account, although each of them is accounted for separately and individually. Mr. Hales said there are over 50,000 licensees, in various professions, under the Bureau's umbrella.

MOTION **Rep. Durst** moved to send **H 350** to the floor with a **DO PASS** recommendation.

Tana Cory, Bureau Chief of the Bureau of Occupational Licensing, was recognized and asked to briefly explain the bureau's organization. She invited the committee to visit the bureau's offices in order to learn more about its operations. She explained that many of the 26 boards in the bureau are small, such as the geologists' board, and they could not afford to perform all necessary services on their own. By joining together, they can take advantage of the bureau's assistance in performing such functions as online licensing. Ms. Cory agreed to provide a written explanation and illustration of the bureau's organization, operations, and various boards.

VOTE ON MOTION **Chairman Black** called for a vote on the motion to send **H 350** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Patrick** will sponsor the bill on the floor.

H 375 **Roger Hales**, representing the Board of Cosmetology, presented **H 375**. He explained the two main provisions of the bill, namely: 1) it will allow the board to use a third-party examination administrator if they desire; and, 2) it will delete the obligation that schools register their students with the board.

In committee discussion, Mr. Hales said the board currently administers the exam itself, at a cost of thousands of dollars per year for room rental (\$7,000), staff (\$5,700), and examination costs (\$23,120). He said moving

to a third-party exam administrator will be revenue-neutral since that money will go directly to the examining entity. Candidates for examination will enjoy the benefit of having the exam available in more locations throughout Idaho and being able to take it monthly rather than only twice a year. Mr. Hales said there will be an increase in cost to students, noting that the current exam fee is \$75 and in the future their total cost will be \$49 higher. He said students are supportive of this change because they will have access to the exam more frequently. Mr. Hales pointed out that students currently need to wait up to four months before they can take the exam and, if they fail, they wait another four months to re-take it.

Explaining the removal of the current requirement to register students, Mr. Hales said sometimes schools would inadvertently forget to register a student and as a result the student would not get credit for any course work she had completed, even if she had been regularly attending classes. He said the board still has licensing authority over schools and in that way they will exercise control over the schools' proper performance. If a school fails to perform adequately, its license can be revoked. He also noted that the examination will remain the same as currently used, but will be administered by a third party instead of the board.

Concerns were expressed by the committee about the possibility that a private testing firm could charge exorbitant fees for the exam, and asked whether any control can be exercised over that cost factor. Mr. Hales said the board has discretion in choosing an exam administrator, and part of their selection process will be to determine how much the entity will charge. The contract with the third party will be annual and subject to negotiation each year. Mr. Hales said such contracts normally have a 30-day termination provision, which further protects against precipitous fee increases. He said the third-party testing firm serves as a proctor and does not actually develop the test itself. He said the firm being considered is well respected and does administer exams for a number of other states. Mr. Hales said he will report the committee's concerns regarding testing fees to the Board of Cosmetology, and he will return next year with a report on how the arrangement is working. Mr. Hales also responded to a question about the difference between "barbering" and "hair cutting" as defined by the legislature two years ago, saying that "hair cutters" are not allowed to use chemicals and are not allowed to shave customers. He explained that the two categories are under separate boards and have different educational requirements.

MOTION

Rep. Snodgrass moved to send **H 375** to the floor with a **DO PASS** recommendation, with a corrected Statement of Purpose; **motion carried on voice vote.** **Rep. Snodgrass** will sponsor the bill on the floor.

H 455

Mr. Hales, representing the Board of Barbers, presented **H 455** and introduced Kevin Moriarty, chairman of the board. Mr. Hales said H 455 is similar in intent to H 375, and said the bill will give the board the option of using a third-party administrator for its examination. There will be the same increase in the testing fee, an additional \$49 from the present cost.

MOTION

Rep. Snodgrass moved to send **H 455** to the floor with a **DO PASS**

recommendation, with a corrected Statement of Purpose; **motion carried on voice vote.** **Rep. Snodgrass** will sponsor the bill on the floor.

H 452 **Roger Hales** presented **H 452**, on behalf of the Idaho Contractors Board. This bill changes the compensation for members of the Idaho Contractors Board, raising it to \$50 per day.

MOTION **Rep. Hagedorn** moved to send **H 452** to the floor with a **DO PASS** recommendation, with a corrected statement of purpose. A concern was raised about whether this compensation will complicate board members' pension plans. Mr. Hales explained that the \$50 per day is paid as an honorarium and will have no adverse effect on qualified retirement plans.

VOTE ON MOTION **Chairman Black** called for a vote on the motion to send **H 452** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Hagedorn** will sponsor the bill on the floor.

H 453 **Mr. Hales** presented **H 453**, on behalf of the Real Estate Appraisers Board. He testified that the bill changes the disciplinary statute in order to allow the board to consider disciplinary actions from another state and will authorize the board to refuse to issue or renew a license. It will also allow the board to require additional education for licensees.

MOTION **Rep. Smith (30)** moved to send **H 453** to floor with a **DO PASS** recommendation, with a corrected statement of purpose; **motion carried on voice vote.** **Reps Crane** and **Hagedorn** voted against the motion. **Rep. Smith (30)** will sponsor the bill on the floor.

H 454 **Mr. Hales** presented **H 454**, introducing John Buck, Board of Morticians, and Myrna Gordon, Idaho Funeral Services Association. This bill corrects an inadvertent omission in the experience requirements for morticians. He said there are two types of licenses, one for morticians and one for funeral directors. Morticians can embalm human bodies as well as plan and conduct funerals; funeral directors cannot embalm. H 454 adds to the requirements for morticians' licenses, requiring them to conduct 25 funerals and assist in arranging 25 funerals during their internship. Mr. Hales said morticians receive a more science-oriented education and more hands-on training because of their embalming duties.

MOTION **Rep. Bilbao** moved to send **H 454** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Bilbao** will sponsor the bill on the floor.

ADJOURN Chairman Black announced that the Business Committee will not meet on Friday, February 15. 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 19, 2008

TIME: Upon Adjournment of the House

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30) (Stanek), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Chadderdon

GUESTS George Yerion, Mary Hughes, Brent Cunningham, Brian Pollick, Dave Curtis, Jeremy Chou, Woody Richards, Rex W. Hansen, Joe Canning, Julie Taylor, Joe Kunz

Meeting was called to order at 2:20 p.m. by Chairman Black. **Rep. Collins** moved to **approve** the minutes of February 13 as written; **motion carried on voice vote.**

**Docket No.
07-0106-0701** **Steve Keys**, Deputy Administrator of the Division of Building Safety, appeared before the committee to answer any further questions about this proposed rule, which incorporates the 2008 National Electrical Code. It was noted that the committee had held this rule because of concerns expressed by interested parties, but that those parties had agreed to accept the decision of the Business Committee if they decided to approve this rule.

MOTION **Rep. Henderson** moved to **approve Docket No. 07-0106-0701. Motion carried on voice vote.**

H 380 **Dave Curtis**, executive director of the Board of Professional Engineers and Professional Land Surveyors, **presented H 380.** Mr. Curtis said the bill is lengthy and contains a number of terminology changes and other changes to land surveying law in Idaho. He said a major rewrite of this code section has not been done for about 20 years, and said the land surveyor board has been working on this legislation for about a year and a half.

Mr. Curtis detailed the changes envisioned by this RS, saying it will substitute the term "license" for the terms "registration" and "certification" when referencing professional licenses. It also substitutes the terms "engineer intern" and "land surveyor intern" for the terms "engineer-in-training" and "land surveyor-in-training," which are obsolete. He also listed the other objectives of the proposed legislation, saying it will: 1) allow the Board to promulgate rules of continuing professional development as a condition of license renewal; 2) remove obsolete language regarding record keeping; 3) require additional education and a minimum time sequence for a person failing an exam three or more times; 4) allow the Board to waive education and exam credentials for an applicant who has been licensed for at least eight years in a comparable system; 5) remove ambiguities dealing with notification time periods in disciplinary matters; 6) increase the

maximum administrative penalty from \$2,000 to \$5,000; 7) remove obsolete language about reissuance or reinstatement of licenses; 8) clarify that the Attorney General prosecutes allegations of misdemeanor unlicensed practices; 9) increase minimum monument size for land surveying from 1/2 inch by two feet long to 5/8 inch by two feet long; 10) require a metal cap or tag on monuments; 11) clarify that professional engineers may perform non-boundary surveys; 12) remove obsolete language regarding oaths to assistants; 13) exempt professional land surveyors from trespass prosecution if they follow notification procedures to property owners; 14) cross-reference sections of Idaho Code in regard to minimum monument size; and 15) clarify the duty of engineers to identify monuments on their plans to allow for preservation.

Mr. Curtis explained the reasoning behind the change from a 1/2" inch rebar to a 5/8" rebar for monument marking, saying that the 5/8" is actually 60% heavier and will not bend as easily. He said the new requirement of a metal cap or tag will provide a more durable material for caps, since plastic caps degrade and can be destroyed by fire or eaten by rodents. He did acknowledge the additional expense of metal over plastic caps, but said the change is desirable in order to provide more permanence in the markings.

Responding to committee questions, Mr. Curtis said any surveys performed after the effective date of July 1, 2008, will have to meet these new requirements. He said if a surveyor finds a 1/2" stake in the course of a survey, he should note it and replace it with the larger 5/8" pin and metal cap. He said the new law does not require any specific kind of metal for caps, so it would allow aluminum, brass, or steel. When asked about the difficulty of driving a 5/8" rod into rocky ground, Mr. Curtis said the bill allows a surveyor to use his professional judgment under "special circumstances" and monument in whatever way he judged to be the best for that situation. He said the intent of the changes in H 380 is to protect the public interest by increasing the permanence and indestructibility of monument markings in land surveys. He said he understands there will be additional cost for the newly-required materials, but he said those costs are not substantial and ultimately they will be passed on to the consumers.

Answering additional committee questions, Mr. Curtis provided further information on the bill's trespass provisions. He said surveyors currently have a right of access to perform surveys. Under the new law, the surveyor will still be able to go on the land, but he will not be guilty of trespass violations if he follows the notification procedures outlined in H 380. With regard to the "special circumstances" language, Mr. Curtis said the Board does not intend to define "special circumstances" by rule, relying on the professional judgment of land surveyors in any particular circumstance. He said the Board is not going to view a failure to use the minimum monument size as an offense or a matter for disciplinary action.

George Yerion, a professional land surveyor from Gooding, testified **in opposition to H 380**. Mr. Yerion said he opposes the provisions dealing with monumentation as well as the trespass provisions. He also thinks the bill does not go far enough in bringing the definitions into conformity with definitions in other states. Mr. Yerion expressed concern that the bill will require surveyors to replace 1/2" pins every time they discover them, pointing out that sometimes these 1/2" pins are paved over or drilled into rock. He said he is concerned about the increased cost resulting from the new

requirements, especially to private landowners who may require a survey. Mr. Yerion pointed out that his bid for a survey will be much higher if he is required to pull all the ½" monuments he finds and replace them with 5/8" pins, whereas a competitor could decide not to replace them because, in the competitor's judgment, "special circumstances" prevail. He also said it is his position that the new requirement for 5/8" pins is not necessary, nor is the change to metal caps. He said his recommendation would be to leave the monumentation requirements as they currently are in the Code.

Responding to committee questions, Mr. Yerion stated he will abide by the law, whether it remains the same or is changed to the new requirements. He said he thinks the new requirements could cause undue delays for real estate developers. He commended the Board of Professional Land Surveyors on its efforts to standardize terminology.

Mr. Curtis was recognized to clarify the intent of the legislation. He said it is not the intent of the Board that a ten-day notice be required. Rather, if a person making a survey cannot obtain oral permission to enter a landowner's property, then he will be allowed to give written notice. Access to the land is still available, but if notice is properly given, the surveyor cannot be held liable for trespass. Mr. Curtis said he agrees that the process could cause delays, but the Board felt that surveyors would be willing to exchange convenience and the expeditious performance of their work for the benefit of not being found guilty of trespass.

Mr. Yerion responded to a question from the committee, saying he does acknowledge the need for "right of entry" laws, but this particular bill goes beyond similar laws in other states. For instance, according to Mr. Yerion, Oregon requires a simple door sticker notification. He agreed that surveyors could consult the county assessor's office to determine land ownership but said they charge a minimum of \$200 to provide such information. Mr. Yerion said that since moving to Idaho from Missouri, he has had little or no trouble gaining access to land in order to perform a survey.

Rex Hansen, a founding engineer of American Geotechnics and president of the American Council of Engineering Companies (ACEC Idaho), which represents 70 engineering firms in Idaho, testified **in favor of H 380**. Mr. Hansen said he has worked on this bill with Mr. Curtis and the Board, and he encouraged the committee to send the bill to the floor as written.

Joe Canning, President of B & A Engineers and a licensed land surveyor since 1982, testified **in favor of H 380**. Mr. Canning said he is testifying on behalf of the Idaho Society of Professional Engineers, with a membership of several hundred engineers throughout the state of Idaho. He encouraged passage of the bill as written.

Jack Clark, Ada County Assessor's Office, testified **in favor of H 380**. Mr. Clark said he is the public relations press manager for a surveyors' group, and the group is supportive of the bill's trespass immunity provisions, which have been under discussion for a number of years. He said in instances where a surveyor cannot contact a landowner, this bill will give him the right to go onto the property, and he urged approval of H 380.

MOTION

Rep. Snodgrass moved to **HOLD H 380** to time certain, **to February 21**;

motion carried on voice vote. Chairman Black asked Vice-Chairman Henderson to assume the chair.

H 493

Jeremy Chou, representing General Electric, presented **H 493**. He explained that current Idaho law allows consumers to purchase service contracts (or extended warranties) that cover damage resulting only from manufacturing defects or by normal wear and tear, but not defects caused by accidental damage. He said that consumers sometimes assume their service contracts include coverage for damage resulting from an accident or a power surge. H 493 will allow companies to offer coverage for normal wear and tear as well as accidents, power surges, and so forth. Mr. Chou said 41 states already allow service contracts to include accidental damage coverage. He said the Department of Insurance and the Consumer Protection Division have no objection to the legislation; in addition, H 493 is supported by the Idaho Retailers Association.

MOTION

Rep Mathews moved to send **H 493** to floor with a **DO PASS** recommendation.

In response to questions from the committee, Mr. Chou stated he represents General Electric. He said H 493 will not remove the protection afforded to consumers under the provisions of a product warranty. He affirmed that a "service contract" is separate from the warranty that comes with a product.

SUBSTITUTE MOTION

Rep. Rusche offered a **substitute motion**, to **HOLD H 493** in committee. In support of the substitute motion, Rep. Rusche said he would like to allow more time for the committee to learn further details about what is covered under a warranty versus what is covered under a service contract.

Rep Mathews argued in support of the original motion, saying that service contracts and warranties are mutually exclusive, and that if there is an overlap between the product warranty and a separate service contract, the warranty coverage would be triggered first. **Rep. Hagedorn** argued in support of the original motion, noting that the bill simply removes "service contracts" from the umbrella of insurance. Without this legislation, anyone selling service contracts or extended warranties would be subject to the insurance laws. **Rep. Patrick** spoke in favor of the original motion, saying H 493 clarifies the situation with regard to service contracts. **Rep. Snodgrass** spoke in favor of the original motion, saying H 493 offers another level of consumer protection.

In response to a question from the committee, **Mr. Chou** said the term "extended" in the case of an "extended warranty" can refer to coverage that goes beyond the bounds of the product's warranty in terms of time limits or in terms of type of coverage. In other words, the coverage could be for a longer period of time or it could be for greater coverage to protect against more types of loss. Mr. Chou said an extended warranty or service contract on a product does not cover for indemnity; for example, an extended warranty on a clothes dryer does not cover for damage to electrical circuits that could be caused by a dryer malfunction. Rather, according to Mr. Chou, such damage would be covered by the homeowner's insurance policy.

VOTE ON

A **roll call vote** was requested on the **substitute motion**, to **HOLD H 493**

SUBSTITUTE MOTION

in committee to a future time. **Substitute motion failed: 1-11-4. Voting in favor of the substitute motion:** Rep. Rusche. **Voting in opposition:** Reps. Henderson, Collins, Snodgrass, Bilbao, Mathews, Patrick, Hagedorn, Bowers, Smith, Durst, and Killen. Chairman Black, Rep. Chadderdon, Rep. Anderson, and Rep. Crane were not present for the vote.

VOTE ON ORIGINAL MOTION

Vice Chairman Henderson called for a vote on the original motion, to send **H 493** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Snodgrass** will sponsor the bill on the floor.

H 522

Ken McClure, legal counsel to Idaho Medical Association, presented **H 522**, a bill directed at solving a problem with some out-of-state insurance companies with regard to preferred provider arrangements. Mr. McClure stated clearly that no problems have been caused in this regard by any Idaho insurance companies. He explained that a preferred provider organization is created by contract between an insurer and a group of providers, and stipulates that the providers will discount their fees for insureds who are covered by the insurer. Mr. McClure described a situation of a "silent PPO" in which a doctor has not specifically agreed to be a preferred provider at all, but an insurer creates a PPO sometimes through trickery or sleight of hand, perhaps through the use of an endorsement line on the back of a check. He said this problem has arisen throughout the United States and many states have already prohibited "silent PPOs." Mr. McClure said H 522 will require that clear and conspicuous language be used in the establishment or the assignment of a PPO relationship between a doctor and an insurer. He explained that the offending companies are out of state and therefore it is not economic for a doctor to pursue them for the relatively small difference in fees.

Mr. McClure said the proposed legislation will allow the Department of Insurance to send a letter advising offending companies that their action is now illegal and warning them to change their business practices. He reiterated that this has not been a problem with any Idaho insurer. He also clarified that, in the view of the Idaho Medical Association, when a member insurer of Blue Cross/Blue Shield Association of America has a covered patient who sees an Idaho physician, this is not an assignment of the contract; rather, this is a direct requirement of the contract that the Idaho physician has signed with either Blue Cross or Blue Shield.

MOTION

Rep. Patrick moved to send **H 522** to the floor with a **DO PASS** recommendation.

In response to a question about the \$5,000 administrative fine that may be imposed, Mr. McClure said an investigation is required, as well as an opportunity for a hearing, before any fine would be imposed. He said this section of the bill uses the exact language as that in the prompt pay bill passed several years ago, which was specifically negotiated with insurance companies.

Steve Tobiason, representing the Idaho Association of Health Plans, testified on **H 522**, saying the association is **neutral** on the bill. He said association members are somewhat apprehensive about the meaning of the term "assignment" in the bill. Mr. Tobiason said he wanted the record to be clear in stating that this legislation deals with an assignment of provider

contract by the insurer to a third party, because the legislation would be enforced by the Department of Insurance. He wants the record to be clear that we're talking about assignment of contract, which is a legal term. Mr. Tobiason said the notification requirements that follow could get expensive if they were applied beyond the application to the assignment of the provider contract to a third party. He said it needs to be clear that this bill does not apply when the insurer acts as a third-party administrator (TPA).

VOTE ON MOTION

Chairman Henderson called for a vote on the motion to send **H 522** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Crane** will sponsor the bill on the floor.

H 523

Pat Collins, general counsel to the Idaho Bankers Association, presented **H 523**, which amends the Idaho Bank Act. Pointing out that the bank act's most recent recodification was in 1979, Mr. Collins said most of the changes are housekeeping items. He pointed out one substantive change, saying the bill makes it clear that a person who suffers economic loss because that person paid money to a crime victim to settle a claim arising from the crime is also a "victim," and restitution may be ordered to that person as part of the criminal's sentence. Mr. Collins said this change is a response to a recent Idaho Court of Appeals decision, *Idaho v. Cheeney*, which held that a bank which had paid money to its customer, a doctor, to settle a claim arising out of embezzlement by the doctor's employee was not a "victim" as defined by statute. The doctor had sued the bank for negligence, and the bank had paid over \$100,000 to settle the claim. As part of the criminal's sentence, the judge ordered the criminal to pay the bank and the doctor for unreimbursed losses. However, the Court of appeals said the bank was not a "victim" and therefore was not eligible for restitution from the criminal.

Mr. Collins briefly summarized the provisions of H 523, namely: 1) it makes clear that in the event of any conflict between the Idaho Bank Act and the general business corporation laws, the Bank Act controls; 2) it eliminates an obsolete requirement that banks file articles of incorporation in the county recorder's office; 3) it eliminates obsolete capital requirements for establishing branch banks; 4) it makes bank reserve requirements in Idaho consistent with federal requirements; 5) it corrects obsolete references to reporting periods; 6) it clarifies the standards applicable to a bank's request for permission from the Director of Finance to repurchase some of its own capital stock, and it removes the arbitrary limit on the amount that may be repurchased and the time period it may be retained; and 7) it corrects an obsolete reference to the Uniform Consumer Credit Code.

MOTION

Rep. Killen moved to send **H 523** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.**

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 4:10 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 21, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30) (Stanek), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** None

GUESTS: Mike Kane, Scott Brassey, Rick Ferguson, Tim Osborne, David Merrick, Jess Lete, Charles Abajian, Rick Woods, Steve Dalmas, Jon Kimberling, Dave Curtis, Jack Clark, Miguel Legarreta, Bill Deal, Kevin Price, John Eaton, Jeremy Pisca

Meeting was called to order at 1:30 by Chairman Black. The Chairman introduced **Rep. Alan Stanek**, who is temporarily replacing Rep. Elaine Smith (30), while she is on medical leave. **Rep. Chadderdon** moved to **approve** the minutes of February 5 as written; **motion carried on voice vote**. Minutes of the February 19 meeting were not available for approval.

H 380

Dave Curtis, executive director of the Idaho Board of Professional Engineers and Professional Land Surveyors, appeared before the committee to discuss **H 380**, which was held from the committee's February 19 meeting. Mr. Curtis reminded the committee of a question from Tuesday's meeting regarding whether H 380 will require surveyors to replace ½" monument markers with 5/8" markers. He said he had initially answered "yes" to that question. However, Mr. Curtis said he needed to clarify his previous answer. He said the correct answer is that if H 380 passes, with the effective date of July 1, 2008, if a surveyor finds a ½" marker in the course of performing a survey, he will not have to replace it with a 5/8" marker. He would simply have to note that he found the ½" pin.

Mr. Curtis also offered further comments on the concerns expressed by George Yerion at the February 19 meeting, reminding the committee that Mr. Yerion's primary concern dealt with the right-of-entry portions of the bill. Mr. Curtis agreed that those portions of the bill could be confusing, as evidenced by committee questions. He said he had an opportunity to meet with Mr. Yerion and the other parties who testified on the bill. As a result of those consultations, Mr. Curtis requested that H 380 be amended, and he presented committee members with proposed amendment language. Mr. Curtis said the existing language includes three provisions, namely, 1) surveyors will be exempt from trespass; 2) they have to send a letter to property owners; and, 3) if they get a return receipt within ten days they can enter the property. Mr. Curtis noted that the existing language does not address what happens if the surveyor does not receive a receipt within ten days or never receives one. He said he is asking that the bill be amended to provide that the surveyor may enter upon the land upon receipt of delivery

confirmation, or after ten days, whichever is less. The amendment also rewords H 380 to say that a surveyor will not be guilty of trespass if he completes the required notification, but it does not obligate him to do so. The obligation to notify the landowner is imposed only if the surveyor wishes to avoid being found guilty of trespass; if he fails to notify, he gives up his protection from being found guilty of trespass. Mr. Curtis noted that he had shared the proposed amendment with those testifying at the previous meeting, including George Yerion, Rex Hansen, Joe Canning, and Jack Clark, and he had received e-mail confirmations from all of them stating that they had no problem with the amendment. He distributed copies of their e-mails to committee members.

Responding to committee questions about the proposed changes in monument marker size, Mr. Curtis said the Board of Professional Land Surveyors is still convinced that the change to the use of a 5/8" marker and a metal cap is a necessary upgrade in the requirements that will protect the public. **Rep. Patrick** expressed his continuing concern with H 380, particularly with regard to the term "special circumstances" which seems to be overly broad. Mr. Curtis responded that it would be virtually impossible to detail with any specificity all possible "special circumstances" that might be encountered by a surveyor in the course of his work.

In response to questions about the notification given to surveyors about these proposed changes, **Mr. Curtis** said the Board has been deliberating them for a number of years, some as long as eight years. He reminded the committee of legislation passed in the House last year dealing with right of entry for surveyors. That bill ultimately failed in the Senate because it contained a provision that a "reasonable effort" be made to contact property owners, and the Senate wanted more specific language. Mr. Curtis said a news bulletin was sent in April to all license holders and certificate holders in Idaho informing them of the new provisions contained in H 380, along with the rationale behind the changes. He said the Board had received letters of support from statewide organizations, including the Idaho Society of Professional Land Surveyors and Professional Engineers and the American Council of Engineering Companies-Idaho. Mr. Curtis said a postcard was sent to all certificate holders and license holders telling them that the Board's website contained the new legislation and advising them of the comment period. He said he also made public presentations to a number of groups around the state of Idaho, and he is aware of further discussions held on the local level. Mr. Curtis said he valued the input provided by Mr. Yerion, noting that the amendment to H 380 was developed in response to the concerns expressed at the committee's Tuesday meeting. He said the Board is very firmly convinced that the larger 5/8" rods and metal caps are in the public interest.

MOTION

Rep. Rusche moved to send **H 380** to **General Orders** with Mr. Curtis's proposed amendment attached as a committee amendment; **Rep. Snodgrass** seconded the motion. **Motion carried on voice vote.** **Rep. Patrick** voted in opposition to the motion. **Rep. Rusche** will sponsor the bill on the floor.

H 411

Bill Deal, Director of the Department of Insurance, presented **H 411**, which deals with suitability requirements for annuity sales. Mr. Deal explained that the position of his department has been to adopt model legislation coming

from the National Association of Insurance Commissioners (NAIC), and the Annuity Suitability Sales Act is one of those model acts. He said the 2005 Legislature approved requirements for determining the suitability of annuity products being sold to clients over the age of 65, taking into consideration their age, financial condition, and the type of annuity product. Mr. Deal said the NAIC has now expanded the model act to include the requirements for annuity sales to all clients, regardless of age. H 411 implements this change in Idaho Code.

Shad Priest, Deputy Director of the Department of Insurance, was recognized to respond to a committee question concerning whether Idaho law provides for a person who may change his mind about this type of product after purchase. Mr. Priest said Idaho Code does provide for a “free look” period during which the purchaser can change his mind; he said that particular provision appears in a different code section than this legislation.

MOTION

Rep. Collins moved to send **H 411** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Collins** will sponsor the bill on the floor.

H 412

Mr. Deal then presented **H 412**, a bill that corrects some technicalities in the code dealing with managed care organizations. Mr. Deal said the changes deal with how statutory deposit limits are set for small, limited managed care organizations. The bill also brings filing dates into compliance with the filing dates of other insurance companies and allows the director to request information at any time he deems necessary. Generally speaking, H 412 makes Idaho’s managed care laws consistent with other insurance laws.

Responding to a committee question about the “other reasonable mechanisms” language on page 4, Mr. Deal said this simply means there are options available to the department in handling complaints, and this bill brings the managed care law into compliance with the rest of the insurance code. He said the “other reasonable mechanisms” are listed in Section 41-3916 of Idaho Code. Mr. Deal said the small managed care organization affected by this legislation is in favor of the “not less than \$25,000” deposit requirement. He said the bill establishes a flat minimum amount, and the actual deposit amount for this company is currently \$50,000, which can be adjusted according to their future growth.

MOTION

Rep. Hagedorn moved to send **H 412** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Crane** will sponsor the bill on the floor.

H 491

Rep. Jim Patrick presented **H 491**, saying it changes the eligibility for property that can be financed with a deed of trust from 40 acres to 80 acres. He said this will provide a simpler way to borrow money against property, noting that currently there are only a couple of companies who will offer mortgages on this type of property, which makes it more difficult to find a lender. But for deeds of trust there are many more lenders. Rep. Patrick said a piece of property in the 80-acre size is usually considered more of a farm, so it has been left out of deed of trust provisions. He said lenders like using deeds of trust, in which the land is signed over to a third party, because foreclosures are simpler and it is easier to get the land back if necessary. Rep. Patrick said a mortgage is still always an option for

financing in Idaho. He said nine states use only deeds of trust, while 15 allow the use of either deeds of trust or mortgages. Twenty-five states allow only mortgages.

In committee discussion, Rep. Patrick said generally speaking a piece of property over 40 acres in size would be considered to be "rural" although if it is located within an incorporated city, it would obviously be considered "urban."

MOTION

Rep. Mathews moved to send **H 491** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Durst** voted in opposition to the motion. **Rep. Patrick** will sponsor the bill on the floor.

H 494

Mike Kane, representing the Idaho Counties Risk Management Program (ICRMP), presented **H 494**. Mr. Kane explained that ICRMP is the entity that insures public entities in the state of Idaho, including many school districts, counties, and cities. Mr. Kane introduced Rick Ferguson, ICRMP director, Tim Osborne, ICRMP controller, and Scott Brassey, Burroughs & Hutchinson, who serves as ICRMP financial adviser.

Mr. Kane gave some background information about the genesis of ICRMP, saying that in the 1980s the private insurance market pulled out of the business of insuring public entities. At that time, governments began forming their own insurance pools, and eventually most cities and other government entities became members of these pools. Mr. Kane said a law was passed in Idaho in the 1990s stipulating that ICRMP would be regulated as a domestic reciprocal insurer. He reported that ICRMP now insures 644 entities and has a total of \$30 million in assets, reserves and surplus.

Mr. Kane said ICRMP's investments are regulated by statute in order to protect members' assets. He said the purpose of H 494 is to allow ICRMP to diversify its investments and realize a greater return. He noted that ICRMP is treated as a governmental entity, and all its investments must be in bonds only, according to the public depository laws. H 494 will allow ICRMP to be regulated as an insurance company, thus allowing investments in instruments other than bonds. Mr. Kane said this change will allow ICRMP to invest in appropriate regulated investments, which will increase returns, lower premiums to insured entities, and ultimately lower property taxes.

Rick Ferguson, executive director of ICRMP, testified **in favor of H 494**. He noted that ICRMP is both a local governmental entity and an insurance company, and ICRMP is regulated in its investments because it is a public entity. He said ICRMP currently has \$30 million in statutorily regulated bonds, but it would like to be able to diversify its investments beyond bonds. Mr. Ferguson said PERSI is another public institution whose investments are regulated, but the statutory regulations applied to PERSI are much less limiting, allowing PERSI the option of diversifying. He said ICRMP is requesting the ability to invest under Department of Insurance regulations. He also said he does not think this will open up cities and counties to speculative investments because ICRMP is different from public entities. He said this bill will just allow ICRMP to improve its investment performance. Mr. Kane added that various associations have all voiced support for this bill.

Answering questions from the committee, **Mr. Ferguson** said the “risk” that will be reduced is the risk of poor investment performance. He said ICRMP has earned as little as 2% return on its bond investments in any given year. **Mr. Kane** said the insurance laws limit the percentage of ICRMP’s portfolio that will be allowed to be invested in relatively higher risk instruments, quoting one section that states no more than 15% can be in common stock. **Mr. Ferguson** explained that the \$30 million in reserves and surplus does not have to cover the amount of potential losses that ICRMP could incur, since they buy reinsurance through Genesis, a company owned by Berkshire Hathaway. He said any claim over \$500,000 is covered by the reinsurer. He also said ICRMP makes every effort to reach a balance between having too much in reserves and running the risk of degrading its surplus.

Responding to further questions, **Mr. Ferguson** said ICRMP does not seek an AM Best rating, which many insurance companies have. **Mr. Kane** said many organizations similar to ICRMP in other states are not regulated by their insurance departments at all, but Idaho has one of the most regulated environments possible.

Tim Osborne, ICRMP controller, was recognized to respond to a question about ICRMP’s ratio of loss to assets; he said that his best estimate is about 78%, which would be typical for the last four years.

The committee asked for further clarification from Mr. Ferguson. He testified that ICRMP covers the first \$500,000 in claims, which would be paid out of its assets. To cover claims beyond that amount, ICRMP purchases reinsurance. He said if ICRMP were to make poor investments and lose a sizeable amount of money, it would have to depend on its members to make up the loss. He said ICRMP is always balancing how much of the taxpayers’ money they hold back and how much they should invest. When asked what would happen in the case of a major catastrophic event like Hurricane Katrina, Mr. Ferguson said their reinsurer, Alliance, provides catastrophic modeling in which, through the use of maps and satellite imaging, they can evaluate flooding and seismic evaluations and assess the potential risk. He said ICRMP has purchased the maximum amount of catastrophic coverage, \$200 million for any one loss. He said ICRMP consults with outside advisers in making its decisions, and he pointed out that ICRMP’s exposure to loss is not great in any one location throughout the state.

MOTION

Rep. Killen moved to send **H 494** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Killen** will sponsor the bill on the floor.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 2: 37 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 25, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Anderson

GUESTS: Penny Fletcher, Robert Bodell, James R. Weimer, Sean R. Nelson, Steve Keys

**Docket No.
07-0301-0701** **Chairman Black** announced that this docket from the Division of Building Safety is a temporary rule that has not been replaced by a pending rule this session. **Steve Keys**, Deputy Administrator, confirmed that this rule expired on January 1, 2008. Mr. Keys and Chairman Black agreed there is no committee action necessary on Docket No. 07-0301-0701.

H 475 **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **H 475**, saying this legislation will establish a five-year registration interval for electrical apprentices and a three-year interval for specialty apprentices. He said the new five-year and three-year time periods should allow enough time for these apprentices to complete their training and transition to journeyman status. Mr. Keys said apprentices are currently required to register annually and pay a \$10 per year fee. He said many apprentices fail to renew in a timely manner and this results in loss of credit for work experience. He also said the present system puts a great strain on the Division of Building Safety staff to accomplish all renewals on an annual basis.

Mr. Keys talked about two objections to the five-year apprenticeship registration proposal. First, the new program does not allow any transition period for currently registered apprentices who may in their third or fourth year of apprenticeship. They will be required to pay the full \$50 fee, even though they may have only one or two years left to complete. Mr. Keys said his board did consider this situation, as well as the situation wherein an apprentice does not finish his required hours within the five-year limitation. He said the proposed system is a negotiated compromise among electrical, plumbing and HVAC boards, and said exceptions to the norm would be unduly complicated to administer, resulting in higher costs.

The second objection revolves around the required annual submission of employment verification from electrical apprentices but not from plumbing and HVAC apprentices. The new system allows submitting proof of employment at the time of license application. Mr. Keys said the Board thinks this will be more efficient and will not be beyond the capabilities of those applying for a journeyman license. He also pointed out that this

legislation dovetails with parallel legislation that standardizes registration requirements among the electrical, plumbing and HVAC apprenticeship programs.

Robert Bodell, a journeyman electrician from southeast Idaho, testified **in opposition to H 475**. Mr. Bodell expressed concern about apprentices who have already invested time and money into an apprenticeship and who will now be required to pay another \$50, even if they have only one year left in their apprenticeship. He is also concerned that accredited work hours will be reportable only at the end of the five-year period, as opposed to the current annual requirement. Mr. Bodell said he would prefer to have some mechanism that will allow for certification of work hours each year. He said he understands that eventually everyone will pay the \$50 fee, but he reiterated his objection to the legislation as proposed, saying that even a fourth-year apprentice who has accumulated 6,000 hours will now have to re-register and pay the additional \$50 fee.

Mr. Keys was asked to respond to committee questions concerning the true cost to the Division of Building Safety for issuing licenses. Mr. Keys said his best estimate is between \$20 and \$25, but he was not able to give definitive figures at the present time. Asked why the Division did not provide for some type of transition period for those already enrolled in apprenticeship programs, Mr. Keys said this bill represents the compromise acceptable to all three boards, electrical, plumbing and HVAC. Mr. Keys said consistency among the three boards would be essential in coordinating the division's software system development and administration. He said the boards did not think the \$50 fee would be an exorbitant expense for apprentices to pay. Mr. Keys confirmed that an apprentice who is close to completing his required hours will still have to pay the new \$50 fee.

JAMES WEIMER, a master electrician, testified **in opposition to H 475**. Mr. Weimer said a lot of apprentices will get shorted on hours if the hours aren't tracked every year. He said he oversees about 85 apprentices, and he knows the Division of Building Safety is not up to date with the hours tracked for these apprentices, with particular problems arising during the last year and a half. Mr. Weimer said he understands the need for a fee increase, but said his opinion is that the journeyman fee should also be increased. He said a \$50 fee could be a burden for a first-year apprentice. Mr. Weimer is in favor of yearly tracking of work hours as well as an annual fee rather than a five-year fee.

Responding to committee questions about the tracking of work experience, Mr. Weimer said the apprentice himself tracks his own hours and the contractor is supposed to provide a certificate each year for hours worked. He said contractors are supposed to send in a notarized certificate verifying the number of hours worked, but some contractors are not particularly diligent in keeping good records on this. Mr. Weimer said there have been occasions when he has helped an apprentice gather up to 1,000 or 1,200 hours from his employer which were previously underreported. He said he thinks annual reporting of hours is preferable to the proposed five-year period. Mr. Weimer said the \$50 fee structure will not negatively affect new apprentices who are just entering the system, but he pointed out that second-year through fifth-year apprentices have already paid fees for each year and now will have to pay an additional \$50 and receive an additional

five-year period in which to complete their required hours of apprenticeship.

Mr. Keys testified that it is not atypical for an apprentice to spend at least five years accumulating the required 8,000 hours; he said it is difficult to find steady work in some periods of economic downturn and the apprentice may take six or seven years, or even longer, to complete his required hours. He affirmed that if a new apprentice buys a license for \$50 and then takes seven years to complete the required hours, the apprentice will spend a total of \$100 in fees under the new system. Under the old regulations, the same apprentice would have spent \$70 in fees, \$10 per year for seven years.

Mr. Keys answered further committee questions, saying that a contractor's license remains a single-year license, while specialty contractors are licensed for three years. Journeymen are licensed for five years. Mr. Keys said the new licensing and fee system was discussed extensively by the various boards, and the general consensus was that the majority of licensees would benefit from a one-time \$50 registration fee. He said the new system would also facilitate the Division's software development and administration since all boards will have a consistent fee structure.

SEAN NELSON, a journeyman electrician, testified **in opposition to H 475**. He said under the present system an apprentice pays \$10 every year, and his education and work experience are reported at the end of each year. Mr. Nelson said the new proposal's provision for reporting work experience only at the end of a five-year period could cause problems. He said that over a five-year period an apprentice could have worked for many different contractors, and gathering and verifying five years' worth of hours may be difficult. He noted that some contractors may even go out of business in that time period. Mr. Nelson said he thinks the legislation needs to include a better method of periodic tracking of on-the-job training hours.

Mr. Nelson responded to committee questions about his personal experience as an apprentice and the tracking of his hours. He said he learned of the verification form only after he started working as an electrician's apprentice, when the state sent him the necessary verification form so he could track his hours. He was responsible for having his employer notarize the hours reported on the form. He said employers do not routinely give a verification of hours to an employee when he leaves employment and moves to another company; that is the responsibility of the electrician himself. He agreed that even though the new law requires reporting only at the end of a five-year period, an apprentice may still keep track of his hours on a yearly basis; however, there is no mechanism for reporting the hours to the Division except on the five-year basis.

Mr. Keys was asked whether a contractor could be vindictive and purposely not report hours for an employee. He responded that this possibility exists even under the current system. Mr. Keys said the Division always has recommended that the apprentice should be responsible for verifying his work time; he said that should be done at least each time a person changes employment. Mr. Keys confirmed that the employer "verifies" the work hours by means of a notarized statement.

When asked whether the bill could be amended to include a provision for annual reporting and tracking of hours, Mr. Keys said that would ultimately

affect the amount of administrative time required of the Division, and thus would affect the fee structure. He also said the plumbing and HVAC divisions do not currently allow annual reporting of work hours, and the Division was striving for consistency among its three boards.

MOTION

Rep. Snodgrass moved to send **H 475** to the floor with a **DO PASS** recommendation. In support of his motion, Rep. Snodgrass said it does not seem unreasonable to expect apprentices to track their own hours, and he noted that for both his real estate and teacher certifications he is expected to keep track of continuing education hours. He said the five-year apprenticeship period will allow a person to earn 1,600 hours of work experience per year and still complete the required 8,000 hours in that five-year period. He also said the proposed fees seem reasonable and he argued in favor of consistency among the three boards.

Rep. Hagedorn spoke in opposition to **H 475**, saying that the proposed fee schedule is a scientific wild guess at best. He argued in favor of working toward finding out the real costs of registration, and said he cannot support the fee structure as it is proposed in H 475.

SUBSTITUTE MOTION

Rep. Crane offered a **substitute motion** to **HOLD H 475 subject to the call of the Chair**, in order to allow time for the difficulties to be worked out among all interested parties. Rep. Crane said the spirit of the bill is commendable but the details need to be refined to address the objections.

Rep. Rusche spoke in support of the **substitute motion**. He said he is somewhat surprised that the board doesn't have some type of "electronic wallet" in which ongoing hours can be stored and tracked. Rep. Rusche said the reporting issue is problematic and he does not want to see the state of Idaho lose a significant number of trained electricians, plumbers or HVAC installers because of a problem with documentation of their work experience.

Rep. Mathews spoke in support of the **substitute motion**, citing unresolved details regarding fees and other policies. He said he needs verifiable data on real costs to the division before he can support the fee schedule, since he is accountable to his constituents for approving measures such as H 475. Rep. Mathews said holding the bill to a time certain will give the parties time to provide verification for their fee requests.

VOTE ON SUBSTITUTE MOTION

Chairman Black called for a vote on the **substitute motion**, to **HOLD H 475** subject to the call of the Chair; **motion carried on voice vote**.

H 478 and H 479

Mr. Keys was asked to comment on **H 478** and **H 479**, parallel legislation to **H 475**, which set up a five-year apprenticeship time period and similar fee schedule. Mr. Keys said it is his opinion that these bills should also be held for further study and possible amendments.

MOTION

Rep Mathews moved to **HOLD H 478 and H 479, subject to the call of the Chair**, in order to address similar issues in these two bills dealing with plumbers and HVAC contractors. **Motion carried on voice vote**.

Chairman Black named **Rep. Crane**, **Rep. Stanek**, and **Rep. Hagedorn** to a subcommittee that will work with Mr. Keys and representatives of the

Plumbing, Electrical, and HVAC Boards to develop amendments to **H 475**, **H 478** and **H 479**. **Rep. Crane** agreed to serve as subcommittee chairman.

H 476 **Steve Keys** presented **H 476**, which establishes a new “unlimited” category of Public Works Licenses in Idaho. The bill also revises the current license classes to recognize inflationary impacts. The new unlimited category will apply to contractors desiring to bid contracts in excess of \$5 million and would require a minimum net worth of \$1 million, with \$600,000 in working capital. In response to a committee question about the requirement of an audited statement of net worth, Mr. Keys said Class A and higher categories need to provide audited statements in order to receive licensing.

MOTION **Rep. Rusche** moved to send **H 476** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rusche** will sponsor the bill on the floor.

H 477 **Steve Keys** then presented **H 477**, a bill that expands the definition of “responsible managing employee” or “RME” to include the representatives designated by installers, manufacturers, and service companies in the manufactured housing industry, in addition to the previously included representatives of retailers and resale brokers. Mr. Keys noted that last year’s House Bill 100 inadvertently excluded these previously included “RME’s” in its definition of “responsible managing employees.”

Penny Fletcher testified in opposition to **H 477**. She stated she has been involved with mobile and manufactured housing issues for many years and served as a resident advocate on the Governor’s mobile home park advisory committee. Ms. Fletcher said residents of mobile homes are easy prey for dishonest personnel who often mislead and overcharge them. She said she opposed H100 last year, and she now opposes H 477 because there are no benefits or services provided directly to consumers and there is no enforcement of current law. She also said there is still no telephone listing for the Manufactured Housing Board, and she testified that verbal and written complaints to the board are not answered. Ms. Fletcher said there is no evidence that the statute (H 100) has helped anyone, and she said there are no administrative rules to implement the new statute.

Mr. Keys was asked to respond to the concerns expressed by Ms. Fletcher. He said this bill corrects an oversight in last year’s H 100, which was an industry bill, not an agency bill. He said the Manufactured Housing Board is relatively small, producing revenue of between \$25,000 and \$50,000 per year. He said the board does not maintain a separate phone listing in every directory in the state, although it does maintain a comprehensive website. Mr. Keys said the board has not seen a need to develop administrative rules beyond what it already has, which seems to be working well. He said Ms. Fletcher is calling for an advocate for tenants, but noted that is an issue that falls outside the scope of this legislation.

Rep. Mathews stated his belief that **H 477** offers a necessary clarification to last year’s H 100 and should move forward. He said the committee can address Ms. Fletcher’s general concerns about the Manufactured Housing Board at a later time.

MOTION **Rep. Mathews** moved to send **H 477** to the floor with a **DO PASS**

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

H 480 **Steve Keys** presented **H 480**, saying this legislation adopts the 2006 International Mechanical Code, the 2006 International Fuel Gas Code, and parts V and VI of the International Residential Code. Mr. Keys said these codes form the regulatory basis for the HVAC industry in Idaho, and this bill will bring these codes into conformity with the 2006 versions of other international codes already adopted. The bill will also give the HVAC board the authority to review and adopt later versions of these codes as they become available. Mr. Keys said the bill also changes the definition of agricultural buildings to farm buildings, and is consistent with the definition also referenced in the International Building Code. The reference to “agricultural zoned property” is intended to clarify that a structure cannot be considered a farm building unless it is located in an area where any applicable zoning regulations allow for farming. It is not intended to reflect specific zoning terminology imposed by any jurisdiction.

MOTION **Rep. Patrick** moved to send **H 480** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Patrick** will sponsor the bill on the floor.

H 481 **Mr. Keys** presented **H 481**, saying this legislation incorporates the previously-mentioned standard definition for farm buildings and eliminates an existing exemption from licensing for water treatment installers. He said that, considering the concerns voiced earlier this year during the administrative rules review about licensure for water treatment installers, he thinks this bill should be amended to reinstate the licensing exemption but keep the new definition of a “farm building.”

MOTION **Rep. Rusche** moved to send **H 481** to **General Orders** with an amendment that will restore subsection (g) on page 2, lines 6 through 10; **Rep. Snodgrass** seconded the motion. **Motion carried on voice vote.** **Rep. Mathews** will 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: February 27, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30) (Stanek), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Patrick

GUESTS: Jim Trent, Allyn Dingel, Steve Tobiason, Phil Barber, Val Brooks, Kathy Smith, John Gannon, Scott Stingley, Mike Larsen, Skip Smyser, Anthony Palideri, Benjamin Kelly, Melissa Pearson

Chairman Black called the meeting to order at 1:30 p.m. **Rep. Bilbao** moved to **approve** the minutes of the February 25 meeting as written; **motion carried on voice vote.**

H 547 **Steve Tobiason**, representing Property Casualty Insurers Association of America, presented **H 547**. He said this bill strikes ten words at the end of a section of Idaho statute that defines "terrorism." He said this definition of "terrorism" was taken from federal law and adopted in 2005. In late 2007, the Terrorism Risk Insurance Act was signed into law and it has now been extended to 2014. Mr. Tobiason said the definition of terrorism was modified in federal statute, and H 547 will assure that Idaho's definition is identical with the federal definition. Mr. Tobiason said the Department of Insurance is aware of the legislation and understands the need for this change.

Mr. Tobiason said he has been asked why a definition needs to be included, rather than just referencing the federal definition. He explained that this specificity was requested by the Business Committee at the time the first terrorism law was put in place in Idaho. He also believes that a recent Attorney General's opinion on delegation of authority by one legislative body to another may necessitate having the specific definition in Idaho code, rather than by reference to federal law.

MOTION **Rep. Killen** moved to send **H 547** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Collins** will sponsor the bill on the floor.

H 448 **Michael Larsen**, Idaho Department of Finance, presented **H 448**. Mr. Larsen said this bill amends the Idaho Escrow Act to clarify that a license can be denied if an applicant has been convicted of any felony or if he has been convicted of a misdemeanor when the misdemeanor involves dishonesty or moral turpitude. He explained that this needed to be clarified more clearly than in current law. He said the legislation will allow escrow trust fund accounts to be established at financial institutions approved by the Director, changing the current requirement that the financial institutions be

“located” in Idaho. The bill also adds consumer restitution and other civil remedies as measures the Department can seek to enforce its regulations. This language was not included when the act was adopted.

In response to a committee question about restitution, Mr. Larson said the Department is generally successful in obtaining restitution because restitution money comes out of settlements. The \$5,000 maximum fine referenced in statute is in addition to restitution. He noted that the Department can suspend or revoke an escrow business’s license, which provides a great incentive for the business to comply with regulations. Mr. Larsen said when violations are found, the Department tries to negotiate an arrangement for restitution, and the offending business would rather enter into a successful negotiation than lose its license to do business. He said the Department always seeks restitution first, before pursuing civil penalties.

Mr. Larsen further testified that H 448 will empower the Department to impound accounts in emergency situations, when they need to act very quickly. This bill will allow the Department to freeze assets and obtain a writ of attachment, if a judge agrees to issue such. Mr. Larsen noted that escrow companies deal with many millions of dollars, and these measures need to be available to the Department to protect the public interest.

Mr. Larsen said that allowing escrow accounts to be deposited in institutions outside of Idaho will not compromise the Department’s enforcement capabilities, since escrow companies are required to register with the Secretary of State’s office as well as submit extensive information to the Department. He said the registration and licensing requirements give the Department the means to reasonably protect Idaho consumers.

MOTION

Rep. Stanek moved to send **H 448** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Crane** will sponsor the bill on the floor.

H 449

Mr. Larsen presented **H 449**, which amends the Idaho Credit Code. He said if this bill is passed, it will add a mortgage retail lending exemption for companies already licensed under the Idaho Residential Mortgage Practices Act, thus removing unnecessary and expensive dual licensing. Mr. Larsen said the Department projects a \$145,000 reduction in revenue as a result. He noted, however, that the Department of Finance is a dedicated fund agency which has contributed back to the General Fund every year for the last four years. Last year’s contribution was over \$5 million. He said this provision will reduce the burden on companies regulated by this rule as well as save a significant amount of administrative time and effort for the Department. The bill also strikes a requirement that precludes a company from relocating more than five miles from its initial licensed location.

MOTION

Rep. Hagedorn moved to send **H 449** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Hagedorn** will sponsor the bill on the floor.

H 450

Mr. Larsen then presented **H 450**, which amends the Idaho Residential Practices Act. He said this bill will 1) eliminate a \$10,000 individual surety bond requirement for mortgage loan originators; 2) enable the director to adopt a pre-license test requirement by rule; 3) clarify that the definitions of

“mortgage lending activities,” “mortgage brokering activities,” and “loan origination activities” include engaging in activities with the expectation of compensation or gain; 4) clarify that the Idaho Residential Mortgage Practices Act applies to loans on all one- to four-family dwellings, regardless of occupancy; 5) repeal the requirement that mortgage broker/lender licensees maintain the original licenses of their employed loan originators; 6) repeal a requirement that loan originator licenses be posted on-site by the employing mortgage broker or lender; and 7) amend the annual mortgage license renewal dates to December 31, to promote uniformity with the nationwide mortgage licensing system.

Mr. Larsen told the committee that Idaho just joined a nationwide mortgage licensing system in January of this year. He said this legislation ensures that Idaho’s statutes are uniform with other states. He said the adoption of pre-license testing is a trend nationwide and he believes it will be an additional consumer protection. Mr. Larsen said pre-license testing does create a barrier to entry, and it is the Department’s task to assure that any barriers are reasonable and in the public interest. He noted that Idaho was the only state to require individual bonding; as the pre-license testing is put in place, it will replace the bonding requirement.

Mr. Larsen said that in today’s business environment, when most licensees (70-80%) are outside the state of Idaho, it is impractical to require them to post their Idaho licenses at their places of business. He said the renewal dates for licenses will be moved to December 31, in order to promote uniformity in the nationwide mortgage licensing system.

MOTION

Rep. Rusche moved to send **H 450** to the floor with a **DO PASS** recommendation.

Scott Stingley, president of the Idaho Mortgage Brokers, which has over 500 members, testified **in favor of H 450**. He said his organization strongly supports this legislation, particularly the pre-license testing requirement that it would impose. Mr. Stingley said individuals should be required to demonstrate some basic knowledge of the industry before engaging in the business of mortgage brokering. He said this legislation will help protect the integrity of his industry.

Chairman Black was asked about the language on page 4, lines 46-50 of the bill, which says that “the director may adopt rules” to put the new requirements in place. He stated that the Legislature passes laws such as H 450 and then the agencies or departments develop specific rules to implement the new law. After the rules are promulgated, the agency returns to the Legislature to seek the required approval of their proposed rules. Thus, Chairman Black explained, the rules implementing H 450 will be developed in the interim and will be reviewed during next year’s legislative session.

VOTE ON MOTION

Chairman Black called for a vote on the motion to send **H 450** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Mathews** will sponsor the bill on the floor.

H 435

Rep. Rusche presented **H 435**, a bill that will increase protections for

customers using Payday Loans. He explained that until 1983 Idaho had usury laws in place which limited the amount of interest that could be charged on loans. Then the Idaho Consumer Credit Code was put into place, and in 2003 several additions to the credit code were passed dealing specifically with payday loans. For instance, the amount of the loan was limited to \$1,000, loans could be renewed a maximum of three times, and conspicuous posting of interest rates and fees was required. Rep. Rusche said that even with these protections in place, concerns and abuses remain with regard to payday loans. He said the primary users of these short-term, high-interest loans are people of limited means. H 435 is aimed at helping these consumers find a more appropriate debt repayment arrangement, by requiring the lending institutions to supply information to their customers about the availability of consumer credit counseling services.

Dennis Basford, CEO of Money Tree, testified on **H 435**. Mr. Basford said Money Tree is a Seattle-based company with 130 locations in five western states, including 18 Idaho locations which employ a total of 150 people. He said the payday loan industry is relatively new, and said that over the past 15 years states have passed legislation regulating payday loans but also recognizing the need for this type of short-term credit. Mr. Basford said Money Tree was the first such company to be licensed in Idaho, beginning with a check-cashing service in 1985. Mr. Basford explained the need for services such as Money Tree, pointing out that few businesses extend consumer credit any more, and therefore consumers either have to pay cash or use a credit card for purchases such as groceries, medications, and fuel. He noted that banks no longer make small loans except through credit cards, and payday loans are often cheaper than a credit card late payment fee, a checking account overdraft fee or an insufficient funds fee.

Mr. Basford said his industry recognizes the need to self-regulate in order to protect consumers. He stated that Money Tree and other CFSA member companies not only abide by Idaho law but also abide by a set of "best practices" that govern the industry. He said customers of Money Tree can come in at any point before a loan is due and, if they are unable to pay off the loan, Money Tree will automatically convert the balance to an extended, 60-day payment plan, at no charge.

The typical charge in the industry, according to Mr. Basford, is \$15 to \$20 per \$100 borrowed. Truth-in-lending laws require that this figure be stated as an annual percentage rate, but Mr. Basford said the annual percentage rate is an inappropriate measure of the cost of a short-term two-week loan. He also said his company, in its advertising, encourages using these services for short-term loans only, and it distributes brochures with full disclosure of all figures. Mr. Basford said if Money Tree is contacted with an offer of a payment plan arranged by a credit counseling service, his people are directed to accept any payment plan. He said Money Tree wants to be part of the solution in helping consumers regain their financial footing.

Mr. Basford noted that some of the "best practices" of his industry have been codified in a number of states, giving the example of the prohibition of criminal prosecution for default. He said he supports H 435, if its implementation will allow Money Tree to add a section to its existing loan agreement. He said he does not support creating a new procedure that requires handing out a separate brochure and requires keeping some kind of log to verify that his company is complying with this new requirement, thus

creating an audit trail.

Melissa Pearson, Debt Reduction Services, was recognized to answer a question about consumer credit counseling services. She said these counselors are regulated and licensed by the Department of Finance, with annual license renewals. She said that creditors and consumer service organizations financially support her services. Ms. Pearson said Debt Reduction Services has offices in Boise, Pocatello, and Idaho Falls; they also have an internet presence and make their services available to other parts of the state by telephone. She also noted that they engage in extensive community outreach efforts, providing information through schools, the Health and Welfare Department, and other venues.

Mr. Larsen answered a question about how many counselors there are in Idaho, saying the Department of Finance has 39 licensed credit counseling services, but upwards of 90% of them are located outside the state of Idaho. He said many of them offer services online.

Anthony Polidari, Idaho Department of Finance, was recognized to explain who pays for credit counseling services. He said many of the services are offered free of charge to consumers, including education and credit counseling. He explained that some of the operating expense of credit counseling services is paid by grants from creditors and revenue from other services such as bill-paying services for clients, who pay a fee for that service. Mr. Polidari said these counseling services are available throughout the state, particularly on the internet and by telephone.

Melissa Pearson was asked about the general nature of the debt borne by consumers who seek help through her services. She said people who use credit counseling services are in financial distress for any number of reasons, which could include credit card debt, lack of budgeting, medical bills, or even lack of simple money management skills such as the ability to balance a checkbook. She said people are having trouble paying their mortgages and many do not have any savings to help them weather economic downturns. Ms. Pearson acknowledged that some clients have gotten into financial trouble exclusively because of their use of payday loans, and usually these people have multiple payday loans from more than one provider. She said, however, this is not the norm; most of her clients have accumulated a combination of medical, credit card, and payday loan debt.

In response to a question about interest caps, **Mr. Basford** said existing law provides no cap on the amount of interest that can be charged. He said that, in his experience, customers are better served in states which do not cap interest rates, since they seem to be able to find lower interest rates in those states where competition and market forces determine the rates.

Rep. Rusche was asked to address further questions about H 435. He said the intent of the legislation is to have lenders make available to consumers a list of licensed credit counseling agencies. He acknowledged that some consumers do not have access to a computer, so in addition to listing a website, the lenders can print out a listing of these counselors to give to clients. Rep. Rusche said he expects the list can be kept current by the Department of Finance. When asked whether any other lenders, besides payday loan companies, are required to provide such a list to its customers,

Rep. Rusche said he is not aware of any.

In committee discussion, it was noted that the new regulations seem to target people who are using payday loans, when in fact consumer credit counseling should be available to other consumers who are heading toward financial difficulties, such as those who are seeking second mortgages on their homes. **Rep. Snodgrass** said it seemed as if every year there is yet another proposal that places new requirements on payday loan companies. He noted that the same requirements are not placed on credit card companies or automobile lenders. He said the legislation seems onerous and seems directed at only one segment of the loan industry.

MOTION

Rep. Snodgrass moved to **HOLD H 435** in committee.

Chairman Black noted that there were still several people who wished to testify on H 435.

Melissa Pearson was recognized to resume testifying on H 435. She said her company, Debt Reduction Services, provides pre-bankruptcy counseling, while other companies provide mortgage counseling services. Ms. Pearson said that, given the tenor of the discussion thus far, her testimony may not add any relevant information to the consideration of this bill. She said she would be willing to return and provide more extensive information at a later date.

Chairman Black announced that the Business Committee has a presentation on financial literacy scheduled for March 13, and he invited Ms. Pearson to return at that time to present further information about her company and its services.

John Gannon, an attorney from Boise representing himself, testified **in favor of H 435**. He said that in his practice he has seen issues arise involving payday loan debt. He noted that such loans are intended to be short-term and they are taken by people who are working and thus have the means to repay them. He said some people in financial trouble have brought on their own problems, but others are in trouble because of medical problems or a recent marital separation in which the spouse is not paying any support. For these people, payday loans may provide a necessary short-term solution to their financial needs. Mr. Gannon said this is a balanced bill, not imposing an interest rate cap. He told the committee about a Department of Defense study of military personnel who use payday loans; as a result of the study, the Department asked for a 36% annual rate cap on these loans for military personnel. This rate cap was enacted by Congress in 2006. Mr. Gannon said full copies of the findings will be available in the Business Committee secretary's office. He again said H 435 is a modest bill that may help consumers avoid financial traps in the future.

Responding to committee questions, Mr. Gannon said it is his opinion that if the notice of available consumer credit counseling services is just another addition to a long loan agreement form, it will not have any positive effect, since most people do not read the entire form. However, if the information is provided in a separate document or list, it could lead the consumers to rethink their decision to use a payday loan, since most of these loans have a 24-hour right of rescission provision.

Committee members discussed the possibility of the new requirement causing an auditable, punishable act for payday loan businesses. Some members expressed concern about causing more regulations for this particular segment of the lending industry. They also pointed out that the more appropriate time to supply credit counseling would be before people get into financial trouble and decide to use a payday loan-type product.

Skip Smyser, an attorney representing Cottonwood Financial, testified on **H 435**. Mr. Smyser said his company does not oppose the bill but would like to propose some amendments to it. He said he finds the concept of a “list” to be disconcerting. His main concern is that by providing a list, no liability will transfer to his company if someone goes to a credit counselor and gets a bad result. Mr. Smyser said he understands that this is not the intent of the bill’s sponsor, and he said language in the bill needs to state clearly that there will be no such liability for providing the list.

Rep. Rusche was recognized to summarize his presentation on **H 435**. He pointed out that the bill does not require consumers to seek credit counseling but does make them aware of its availability. He said no auditing was intended by the bill and therefore he did not think the bill’s provisions would be onerous. Rep. Rusche said the bill was developed in response to requests from consumer credit counseling services in Lewiston, concerned with what they could do to help clients who are having trouble with payday loans. He said capping the interest rate for such loans is not a good solution since it will dry up their availability. He noted that the concerns about helping payday loan clients will not go away.

Rep. Durst commented that he had not heard any arguments against this bill, pointing out that even an industry representative, Mr. Basford, does not oppose it. He said it is not his opinion that the bill is an attempt to demonize the payday loan industry.

**SUBSTITUTE
MOTION:**

Rep. Durst offered a **substitute motion**, to send **H 435** to the floor with a **DO PASS** recommendation. He requested a roll call vote on the motion.

Arguing **in favor of the substitute motion**, **Rep. Killen** said the “burden” being placed on loan companies is simply the printing of a short, 21-word notice, to be added to a pre-existing form. He noted that the list of counseling services can be printed out in a matter of seconds. He said the provisions of the bill will produce better informed consumers who will understand their need to budget and manage their finances. He said this requirement could work for the benefit of the payday loan industry, since they could become leaders in consumer financial education.

Rep. Hagedorn argued **in opposition to the substitute motion**, although he said he understands the intention of the bill’s sponsor is very well founded. He said companies such as Mr. Basford’s who implement “best practices” will flourish, while others who do not will eventually fail. Rep. Hagedorn said he believes this market-driven solution is better than mandating the 21-word statement.

Rep. Anderson argued **in opposition to the substitute motion**, saying he does not see how this legislation will help anyone avoid a bad debt situation. He said he is sympathetic to the need for debt and credit counseling

services, but this is not the appropriate method to address the need.

Rep. Bowers argued in **opposition to the substitute motion**, saying he believed that most of the required brochures would be thrown out. He said it is not fair to require the payday loan industry to address the problem of lack of financial education. He said the bill will not achieve its intended results, despite the good intentions of the sponsor.

Rep. Crane argued in **opposition to the substitute motion**, saying the bill represents an attempt to solve a problem but in reality it will accomplish very little. He said passing this legislation will make the Legislature feel as if they did something good, but will have little effect. He agreed that financial education needs to start in high school in order to help people avoid the types of problems that lead them to use payday loan services.

**VOTE ON
SUBSTITUTE
MOTION**

On a roll call vote, the **substitute motion failed: 4-11-1**. **Voting in favor** of the substitute motion: Reps. Stanek, Rusche, Durst and Killen. **Voting in opposition** to the substitute motion: Reps. Henderson, Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Hagedorn, Bowers, and Chairman Black. Rep. Patrick was absent and excused.

**VOTE ON
ORIGINAL
MOTION**

Chairman Black called for a vote on the original motion, to **HOLD H 435** in committee. On a roll call vote, the **motion passed: 11-4-1**. **Voting in favor** of the motion: Reps. Henderson, Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Hagedorn, Bowers, and Chairman Black. **Voting in opposition:** Reps. Stanek, Rusche, Durst, and Killen. Rep. Patrick was absent and excused.

ADJOURN:

Chairman Black announced that the committee will not meet on Friday, February 29. There being no further business to come before the committee, the meeting was adjourned at 3:20 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 3, 2008

TIME: 1:30 P.M.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Hagedorn, Rep. Durst

GUESTS: Jerry Peterson, Marilyn Chastain, David Bennion, Colby Cameron, Marty Peterson, Mark Dunham, Jeanne Jackson-Heim, John Eaton, Jessica McDonald

Meeting was called to order at 2:10 p.m. by Chairman Black. **Rep. Bilbao** moved to approve the minutes of February 27 as written; motion carried on voice vote.

H 556

David Bennion, a retired engineer appearing who previously served on the Public Works Licensing Board, presented **H 556**. Mr. Bennion gave brief background information regarding this legislation, saying that there are two methods of contracting for public works construction projects, namely, through the normal bid process or through performance contracting. He said performance contracting was put in place about ten years ago, to allow energy equipment supply companies to propose building upgrades in a way that wouldn't cost additional money to building owners or taxpayers. Using this methodology, the owners would realize the benefits of reduced energy costs, and energy companies would realize savings in energy.

Mr. Bennion said the law is now being misused in certain instances where suppliers or contractors will suggest performance improvements in public facilities and then convince the public entity that other building projects, such as additional classrooms or a gymnasium in a school, are necessary. The supplier or contractor will then get the contract to do the additional work without the job being put to a competitive bid process, as should be required for such work. Mr. Bennion said this has become a more significant problem since the rewrite of the public works licensing law.

Mr. Bennion said that H 556 provides needed specificity to the law, more clearly stating the original intent of the legislation by limiting the use of performance contracting to existing facilities. He said the bill will allow performance contracting for any energy upgrades in plants or buildings, but will not allow it for independent new construction.

Chairman Black noted that this abuse has resulted in new buildings being constructed that have not been put out for competitive bids, which does not serve the taxpayers or the public interest.

Marty Peterson, representing the University of Idaho, testified on **H 556**.

Mr. Peterson said the U of I initially had some concerns with the bill because they thought it might have interfered with two construction projects for which bonds have been issued but actual construction has not started. After talking with the bill's sponsors, Mr. Peterson said the Division of Public Works has agreed to provide a letter indicating that the university can proceed with the two projects, a water cooling tower and a wood chip storage unit, despite this legislation. Therefore, with that letter of permission, Mr. Peterson said he does not oppose the legislation.

MOTION

Rep. Rusche moved to send **H 556** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Black** will sponsor the bill on the floor.

S 1253

Marilyn Chastain, Securities Bureau Chief of the Department of Finance, presented **S 1253**. This bill amends the Idaho Uniform Securities Act. Ms. Chastain said Idaho revised its entire securities law in 2004 by adopting a new version of the Uniform Securities Act. This bill deals with one provision on page 3, in subsection 11, which needs updating and correcting. Ms. Chastain said that current law does not allow an individual offering financing to use general advertising and does not allow anyone to be compensated for bringing together two parties to such a transaction. She said that Idaho has quite an active industry in putting together these types of transactions; she said the most common example is a private person who wants to provide funding to another individual to build a home. She said that technically this type of financing is a securities transaction, but it has traditionally been exempt from the registration requirements in Idaho's securities law. According to Ms. Chastain, this bill will eliminate language put in place with the 2004 Uniform Securities Act that unnecessarily limits these transactions in Idaho. She said the Department of Finance has not found any need for the provisions that will be removed by S 1253. She also pointed out two other changes, both technical in nature, on pages 5 and 8 of the bill.

Responding to committee questions, Ms. Chastain said the department was not approached by anyone to remove this language; rather, she said, the problems became apparent to the department shortly after the new law went into effect in 2004. She said it was a completely inadvertent error, and the Director had issued an order to accomplish on a temporary basis what this legislation will put into place. She said this will prevent disruption of business for companies doing these types of transactions. Ms. Chastain also said this section of Code deals only with registration under the securities laws; the banking laws would still apply, but those are in a different Code section. She said Idaho also has laws regulating the mortgage industry and any relevant laws under that section would also apply. She said this exemption simply addresses a situation where a person takes back a note, and that note is required to be registered as a security under current law.

MOTION

Rep. Patrick moved to send **S 1253** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Patrick** will sponsor the bill on the floor.

S 1251

Jeanne Jackson-Heim, Executive Director of the Idaho Real Estate

Commission, presented **S 1251**, dealing with licensee education. Ms. Jackson-Heim said S 1251 includes recommendations from a work group studying licensee education requirements and policies. She said the legislation will shorten the period of time to complete all pre-license education requirements, from five years to three. Ms. Jackson-Heim said this will assure that applicants have the most relevant and current course work. She said this shorter time period will not pose a hardship for licensee applicants due to the increased number of educational opportunities and course offerings now available. She said the Commission has approved new courses that will count toward broker licensing, and courses are now being offered more often in all parts of the state.

Ms. Jackson-Heim said the bill will also clarify that it is the commission's responsibility to determine whether a continuing education course fits within the approved topics. It will establish a maximum period of five years for real estate course providers to maintain student records; currently no retention period is specified. It will also add language requiring that instructors adhere to the minimum teaching standards of the Commission.

Answering questions about minimum teaching standards, Ms. Jackson-Heim said the commission has had some complaints of instructors acting inappropriately or making disparaging remarks about the competition, among other actions. She said that rather than trying to specify all behaviors that may be deemed inappropriate, the commission decided on the broad language contained on page 8, lines 30-34, which is intended to cover any eventualities. She said the commission has not had any power to enforce its regulations if providers did happen to do something inappropriate. Ms. Jackson-Heim said the commission can withdraw a provider's certification if it determines that complaints are justified. She said minimum requirements and expected behaviors for education providers are specified in greater detail in the commission's administrative rules.

MOTION **Rep. Killen** moved to send **S 1251** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Killen** will sponsor the bill on the floor.

S 1257 **Ms. Heim** then presented **S 1257**, a proposal to change two definitions in real estate license law. She said the bill will provide a definition of "business day" that corresponds with the definition commonly used in other sections of Code. The second change involves updating the definition of "kickback." Finally, she said, the bill involves the codification of certain educational certification fees in the fee section of the license law. She said the exact amounts are not specified in code, and this bill will specify the fees, although no fee increase is requested. Asked to provide a definition for "kickback," Ms. Jackson-Heim said that, in general, a kickback is an offer to give back a portion of money to someone who is not a party to the transaction, in exchange for their providing a benefit. Or, she said, it could entail "finder's fees" for directing business to a particular party or company.

MOTION **Rep. Snodgrass** moved to send **S 1257** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Snodgrass** will sponsor the bill on the floor.

S 1344a **Larry Tisdale**, Chief of the Financial Operations Bureau, Medicaid Division,

Department of Health and Welfare, presented **S 1344a**. Mr. Tisdale said this bill brings the Department into compliance with federal law and the requirements of the Deficit Reduction Act of 2005. He said the changes will enhance third party identification and recoveries for the state's Medicaid program by providing clarification of third parties responsible for payment of health care items or services. The law requires timely sharing of insurance coverage information as well as assignment to the Department of any right of an individual receiving public assistance. He noted the bill also provides that third parties or insurance companies may not deny the Department's claims based on the date of submission, type or format of the claim form, or failure to provide point of sale documentation.

Mr. Tisdale responded to questions concerning recovery, saying that when funds are recovered by the Department they are available to spend and therefore they offset Health & Welfare budget amounts. The recovered funds do not go back into the General Fund. Mr. Tisdale also noted that in cases of fraud, the Department can refer cases to the Attorney General's fraud unit; he said there is also a fraud division within the Department. Mr. Tisdale said any time money is recovered by either the Attorney General or Medicaid, a proportional share is returned to the federal government. He said, however, that the monies recovered through the provisions of S 1344a do not relate to fraud; rather, they deal with instances in which insurance companies should have paid the Division of Medicaid. Mr. Tisdale also said recovery of money following the death of a recipient is not enabled by the recovery statute; rather, it is handled through the probate process.

MOTION

Rep. Rusche moved to send **S 1344a** 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 3:05 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 5, 2008

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Bilbao, Rep. Anderson

GUESTS Mike Brassey, Mark Guimond, Melissa Pearson, Dawn Justice, Pat Collins, Ken McClure, Rich Fairbanks, Mike Larsen, Dave Curtis, Skip Smyser

Meeting was called to order at 1:35 p.m. by Chairman Black. **Rep. Chadderdon** moved to **approve** the minutes of March 3 as written; motion carried on voice vote.

SCR 131 **Rep. Black** presented **SCR 131**, a concurrent resolution rejecting a portion of the administrative rules from the Idaho Real Estate Commission dealing with inappropriate conduct by real estate education providers. He reminded the committee that the commission had recently presented legislation that contains rather broad language to authorize them to deal with inappropriate behaviors without specifying in great detail the behaviors that should be considered "inappropriate."

MOTION **Rep. Patrick** moved to send **SCR 131** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Patrick** will sponsor the resolution on the floor.

H 380a **Dave Curtis**, executive director of the Board of Professional Engineers and Professional Land Surveyors, appeared before the committee to discuss **H 380a**. Mr. Curtis reported that he had been working on further amending the bill in order to satisfy some of the concerns. First, the one-half inch size for monument markers will be retained, and second, the proposed requirement to use metal caps on monuments will be eliminated. Mr. Curtis explained that the 5/8 inch size will still be required for markers on angle points of exterior boundaries and street intersection and angle points in subdivisions. He said the required length of the 5/8 inch rebar was reduced to two feet.

Mr. Curtis was asked whether the new amendments address all the issues brought up in objection to H 380a; he responded that the issues of right of entry and protection from trespass violation are not addressed in the new amendment. He said there are some House members who believe a surveyor should not be able to come onto private property for any reason, at any time. This, however, is impractical since a surveyor is required to access monuments in order to perform his duties.

MOTION

Rep. Rusche moved to send **H 380a** to General Orders with committee amendment attached; **Rep. Smith** seconded the motion. **Motion carried on voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

H 451

Michael Larsen, Consumer Finance Bureau Chief at the Department of Finance, presented H 451, which will amend the Idaho Collection Agency Act. Mr. Larsen said he also has drawn up several amendments to the bill and will explain those amendments, which are contained in RS 17430a2. He said he had worked with four separate associations in developing this legislation, namely, the Idaho Collectors Association, the American Association of Debt Management Associations, the Consumer Debt Association, and the Association of Debt Settlement Companies.

Mr. Larsen said H 451 aims to establish uniformity of licensing requirements for collection agencies, whether they are located within or outside of Idaho. He said the bill eliminates an in-state office requirement and replaces a testing requirement with an experience requirement for office managers of collection agencies. He said it also clarifies that the \$20 annual fee applies to solicitors and agents of collection agency licensees inside and outside Idaho. Mr. Larsen explained that under existing law in Idaho “foreign permittees” are collection agencies who elect to operate in Idaho but who do not want to have the right to solicit creditor clients in Idaho. Foreign permittees do not have to pay the \$20 annual fee for agents and solicitors.

Explaining other provisions of H 451, Mr. Larsen said it will eliminate one of two surety bonds currently required of collection agencies, a \$1,500 bond to reimburse the Department of Finance for investigative expenses. He said this bonding requirement has been in place for 30 years and he is not aware that it has ever been utilized. Another provision of H 451 will allow collection agency licensees to charge a convenience fee when debtors elect to make voluntary electronic payments. The fee charged must be “reasonable” and must be a reflection of the actual cost to the collection agency. Mr. Larsen said in the current business environment many debtors elect to make electronic payments and existing law does not allow a fee to be charged for this convenience. Payments made by traditional means, that is, by cash or check, will not incur any fee. Mr. Larsen also assured the committee that the convenience fee will not be included in the balance upon which interest is calculated.

In committee discussion, Mr. Larsen explained the reason for removing the current requirement that credit counseling services operate as nonprofit 501(c)(3) organizations. He said the industry has changed and there are many good for-profit companies who want to offer their counseling services in Idaho. Additionally, Mr. Larsen said the Internal Revenue Service has revoked the nonprofit status of many counseling services because they are not complying with the requirements of an increasingly complex law. Mr. Larsen said the Department of Finance no longer thinks it is necessary to require nonprofit status as a protection of the public’s interest. He said the Department will continue to oversee debt and credit counselors as it does now. He said many of these services offer a number of free programs, including assessment services and financial education. Mr. Larsen said the collection agency industry consistently generates the most complaints to the Department of Finance, and a lot of staff time is spent responding to the complaints and trying to educate consumers on their options.

Mr. Larsen further testified that H 451 defines “credit counseling” and “credit repair organization,” neither of which was previously defined in Code. He said there has been an increase in offers being made to Idahoans from companies claiming to be able to “repair” credit by removing negative but accurate information from a person’s credit report.

Chairman Black asked Mr. Larsen whether he had received any objections to or negative comments on H 451. Mr. Larsen said the Department had spent considerable time working out the details of the bill with industry representatives and, although not everyone got everything they wanted, he said he believes the bill does represent consensus among all parties.

Mike Brassey, representing the Association of Settlement Companies, testified **in favor of H451** with the proposed amendments. Mr. Brassey said the amendments had been worked out between the Department and the industry to address several oversights in the original proposed legislation.

Mark Guimond, representing the American Association of Debt Management Organizations, testified **in favor of H 451**, especially the provision to remove the nonprofit status requirement for credit counseling services. Mr. Guimond’s organization represents 70% of licensed credit counseling agencies in the state, all of which are tax-exempt nonprofit organizations. He explained that the entire credit counseling industry is under close scrutiny and examination by the Internal Revenue Service, and most counseling services will lose their nonprofit status in the near future. He said he supports the removal of the nonprofit requirement, noting that this is a trend in state law changes and saying that Delaware, Virginia, Minnesota, Mississippi and other states have already removed this requirement. The same change is pending in four other states at the present time. Mr. Guimond said the IRS is compelled to enforce a 40-year-old statute, and most credit counseling services do not meet the requirements of that law. He said the IRS regulations have not caught up with current business practices; for instance, the IRS does not recognize internet instruction as education. He said efforts to change the IRS tax code, rather than change laws in all 50 states, is impractical. Mr. Guimond said the terms “debt counselor” and “credit counselor” should be understood to mean the same thing.

Melissa Pearson, representing Debt Reduction Services, testified **in favor of H 451**. Debt Reduction Services is the largest provider of credit counseling in Idaho, with offices in Boise, Pocatello, and Idaho Falls. They offer pre-bankruptcy counseling and post-debtor education. Ms. Pearson said the most important aspect of H 451 is its removal of the nonprofit requirement. She said her industry is heavily regulated, complying with voluntary licensing and providing maximum bonding, trained counselors, and insurance protection. She said her company holds membership in the Better Business Bureau and the American Association of Debt Management Organizations. Ms. Pearson said all of these conditions will still remain even if her company is not required to operate as a nonprofit entity. She thanked the Department of Finance for its work on this legislation.

Rich Fairbanks, representing the Idaho Collectors Association, testified **in favor of H 451**. Mr. Fairbanks said his industry is heavily regulated at the federal level, and noted that his organization’s 29 members have a good working relationship with the Idaho Department of Finance, where he has

served as a committee chair for the past three years. Mr. Fairbanks also serves as secretary of the association's board.

Skip Smyser, an attorney representing the Consumer Data Industry Association, testified **in favor of H 451** with the amendments proposed by the Department. Mr. Smyser commended Mr. Larsen and the Department of Finance for its work on this legislation.

Mr. Larsen was recognized to answer further questions from the committee. He said H 451 does not regulate foreclosure companies per se, but would apply to them if they also advertised, as part of their services, the ability to repair a client's debt.

Mr. Larsen explained the amendments to H 451, saying that the amendments more closely define what a "credit repair organization" is. He said companies providing access to these products by marketing and/or advertising would not be defined as credit repair organizations. He said he anticipates working out the details of this legislation in the Department's administrative rules. Mr. Larsen said the amendment also caps the service fee at 20% of the principal amount at the time of contracting for the debt management services, and provides for a refund in case of cancellation.

MOTION

Rep. Rusche moved to send **H 451** to **General Orders** with amendment attached; **Rep. Mathews** seconded the motion. **Motion carried on voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

S 1380a

Pat Collins, an attorney representing the Idaho Bankers Association, presented **S 1380a**. Mr. Collins explained that this bill will allow consumers to contact credit reporting agencies and ask them to freeze their credit information. If this is done, anyone trying to obtain a credit report on the consumer will be told that the credit report is frozen. This will make it more difficult for fraudsters to obtain credit using a stolen identity. Mr. Collins said about 38 states have already passed this type of legislation, which fits beneath the Federal Fair Credit Reporting Act.

Mr. Collins explained how a consumer can place a freeze as well as temporarily lift the freeze so he or she can engage in a credit transaction. He said the bill requires that the freeze must be placed within six days, and a mail verification must be sent within five days. Consumers will be issued PIN numbers so they can "unfreeze" their reports. The bill also specifies that consumer reporting agencies shall develop contact methods, including an electronic method, to receive requests for freezes. They must also specify how a consumer can permanently remove a credit freeze as well as how to temporarily lift a freeze. The bill specifies that a freeze must be lifted or removed within three days of receiving a consumer's request to do so; when an electronic method becomes available, the lift must be done within 15 minutes of receiving the electronic request. Mr. Collins said the bill also includes a number of standard exceptions to credit freezes, including necessary background checks for employment and housing. The bill limits the fees charged for credit freezes, saying up to \$6 can be charged to temporarily lift a freeze; no fee can be charged for permanent removal of a freeze. In addition, if a consumer can prove he has been the victim of identity theft, no fee will be assessed for a credit freeze. The bill provides that enforcement powers rest with the Attorney General's office for credit

reporting agencies who do not comply with the legislation.

Answering questions about the charges imposed, Mr. Collins said the consumer would have to pay up to \$6 to each of the three credit reporting agencies in order to have all three of them issue a credit freeze. If the consumer requests a temporary removal of the freeze, the fee would be paid again, but no fee would be paid if a consumer requests a permanent removal of the freeze. Mr. Collins said the rationale behind the fee is that it does cost the credit reporting agencies to implement these freezes, and the fee is designed to allow them to recover these costs.

MOTION

Rep. Durst moved to send **S 1380a** to the floor with a **DO PASS** recommendation.

In further discussion, **Mr. Collins** said the consumer would need to contact each of the three credit reporting agencies separately in order to “unfreeze” all three credit reports. If a consumer needs to unfreeze credit for a specific transaction such as a furniture purchase, Mr. Collins suggested the consumer inquire of the retail establishment to determine which credit reporting agency the retailer uses, and then request the unfreezing from only that reporting agency. Mr. Collins said the credit freeze does not affect an agency’s ability to continue gathering credit information on individuals; rather, it affects only the ability to get access to credit reports.

Chairman Black noted that the chief reason for this legislation is to prevent identity theft. **Mr. Collins** said the fee is not mandated to be \$6; rather, that is a maximum amount, and the actual fee will be set by market forces. He said all three credit reporting agencies have made this credit freeze available even in states where it has not been mandated.

Committee members discussed the advisability of having a credit freeze option, noting that a total of \$18 does not seem to be an unreasonable burden for the peace of mind this service would offer. A question was asked about how consumers can be made aware of this new service. **Mike Larsen**, Department of Finance, was recognized to respond, saying his department spends considerable time on financial literacy education in Idaho and this will be an additional topic they can cover. **Pat Collins** said he feels certain that the AARP will also advertise and educate the public about this service. In addition, he said, the Attorney General’s consumer protection division can post information on its website.

VOTE ON MOTION

Chairman Black called for a vote on the motion to send **S 1380a** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Black** will sponsor the bill on the floor.

S 1397a

Ken McClure, an attorney representing Adjusters International, a public insurance adjusting company, presented **S 1397a**. Mr. McClure said the business of public adjusting is new to Idaho and represents a new concept to most people. He said S 1397a is a bill to license public insurance adjusters and explained that “public adjusting” is insurance adjusting on behalf of insured people. Normally, insurance adjusters are employed by insurance companies. The insured person, should he or she need adjusting services, must rely upon the agent or hire an attorney. Mr. McClure said some claims don’t lend themselves to either of those two choices. He said

42 other states already have public adjusting in place, and said this bill is based on the National Association of Insurance Commissioners model legislation. Mr. McClure also explained that the amendment to S 1397a provides technical corrections made necessary due to inadvertent mistakes made when the model legislation was drafted as a bill in Idaho. For instance, certain definitions were not deleted when the corresponding sections were omitted from Idaho's version.

Responding to questions from the committee, Mr. McClure said the law will be administered by the Department of Insurance, just as the other insurance adjuster laws are. He said there had been no testimony in opposition to the bill, although there have been some questions raised and there has been some resistance from insurance carriers. Mr. McClure said he suspects this is because this process may complicate some claims settlements. He said trial lawyers may object to this legislation because, to the extent that a private adjuster will be able to satisfactorily settle an insurance claim, those cases will not require the services of an attorney.

Mr. McClure was asked for an example of the type of claim in which private adjusting would be useful. He said a claim such as one arising from a store owner's inventory being ruined by sprinklers coming on during a fire could qualify, since the owner may have insurance coverage for business interruption but the inventory loss may be complicated to calculate. Mr. McClure also explained the provision on page 12, lines 23-26, concerning participation in the central repository for obtaining criminal background information. He said once this bill is passed, the Department of Insurance will begin its implementation, but the participation in the central repository may not be accomplished by July 1, 2008. In that case, the law will be effective once the participation is effected.

Chairman Black spoke to the merits of this legislation, giving an example of a fully restored antique automobile that has required considerable investment to accomplish the restoration. He noted that, should that auto be lost or damaged, the insurance company could propose a settlement figure that would not come near to covering the actual value or cost of restoring the car. A private adjuster, whose business it is to research the actual fair market value and replacement cost, will be able to render a great service to the insured in cases like this. Mr. McClure pointed out that current law does not allow an insured to hire a private adjuster.

MOTION **Rep. Snodgrass** moved to send **S 1397a** 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 3:25 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 11, 2008

TIME: 1:30 P.M.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Hagedorn

GUESTS: Josh Tolman, Bob Corbell, Jessica McDonald, Kevin Price, Miguel Legaretta, Guy Hallam, Alex LaBeau, Tom Arkoosh, Jerry Peterson, Jeremy Pisca, Sam Johnson, Megan Olmstead, Stephen Freiburger, John Eaton

Meeting was called to order at 1:32 p.m. by Chairman Black. **Rep. Bilbao** moved to approve the minutes of March 5; motion carried on voice vote.

Chairman Black explained that, because of the committee's long meeting agenda and the necessity to finish 3:30 p.m., he intended to allow each bill's presenter adequate time to present the bill and then allow each testifier three minutes for testimony on the bills.

H 475 **Steve Keys**, Deputy Administrator of the Division of Building Safety, appeared before the committee to present an amendment to H 475, in response to some questions about the original bill. Mr. Keys said he worked with Reps. Crane and Hagedorn to craft the amendments. He said the amendment to Section 1 stipulates that verification of employment forms submitted by apprentices shall be maintained by the Division of Building Safety. He explained that the amendment on page 3, dealing with the \$50 and \$30 fees for multi-year licenses, will allow an apprentice to apply any unused portion of a multi-year license toward the purchase of a journeyman license. Mr. Keys also noted that, in response to a previous question from the Business Committee, he had researched the actual cost to the Division of issuing licenses for plumbing, electrical and HVAC contractors. He said the average current cost is approximately \$35 per licensee.

Chairman Black asked Mr. Keys to briefly explain how an apprentice is apprised of his responsibility to track his work experience during his apprenticeship period. Mr. Keys said the application forms spell out the requirement to submit verification forms from employers on an annual basis, and he said they are encouraged to obtain a verification form each time they change employers. In addition, apprentices are urged to track their own hours. Mr. Keys said the verification forms as well as any continuing education information that is submitted will be kept in a "virtual wallet" by the Division. Mr. Keys said occasionally an apprentice has a problem getting verification of work from an employer, but this usually takes place when the employer has gone out of business. In such cases, he said the Division accepts pay stubs and statements from former supervisors or foremen who

can verify hours.

MOTION **Rep. Bilbao** moved to send **H 475** to **General Orders** with committee amendments attached; **Rep. Mathews** seconded the motion. **Motion carried on voice vote.** **Rep. Bilbao** will sponsor the bill on the floor.

H 478 and H 479 **Mr. Keys** presented similar amendments to **H 478** and **H 479**, parallel legislation to **H 475**, to deal with plumbing and HVAC contractors. Mr. Keys explained that the amendments to these two bills will allow apprentices to credit any unused or residual amount of a multi-year license fee toward the fee charged to acquire a journeyman license. He said the employer verification forms are not a concern in the plumbing and HVAC industries because the Division has not previously required annual submissions of employment verification.

MOTION **Rep. Collins** moved to send **H 478** to **General Orders** with committee amendments attached; **Rep. Henderson** seconded the motion. **Motion carried on voice vote.** **Rep. Collins** will sponsor the bill on the floor.

MOTION **Rep. Mathews** moved to send **H 479** to **General Orders** with committee amendments attached; **Rep. Chadderdon** seconded the motion.

Bob Corbell, representing HVAC, mechanical, and electrical contractors, testified **in favor of H 475, H 478 and H 479.** Mr. Corbell said he has not heard any negative comments regarding this legislation, and has heard support for the five-year apprenticeship program. He supports these three bills and the proposed amendments. Mr. Corbell also said the chairman of the Electrical Board, Tom Brown of B & B electric, is supportive.

VOTE ON MOTION Chairman Black called for a vote on the motion to send **H 479** to **General Orders** with committee amendments attached; **motion carried on voice vote.** **Rep. Mathews** will sponsor the bill on the floor.

S 1401 **John Eaton**, Government Affairs Director for the Idaho Association of Realtors, presented **S 1401**, a bill dealing with confidential client information in real estate transactions. Mr. Eaton said there is some confusion over the definition of “confidential” and the bill is an attempt to provide a clear definition. He said the question that has arisen is whether or not a property’s “sold” price is confidential information. Mr. Eaton testified that when a real estate agent agrees to sell a home for a client, the client can choose to have his home listed with the Multiple Listing Service (MLS). Once the listing is part of the MLS service, the agent is responsible to report the listing price as well as the final sold price. He said some sellers request that the agents not list the “sold” price after the home is sold. This leads to a significant loss of sale price information available for assessment and evaluation purposes. Mr. Eaton said this legislation will allow MLS to enforce their existing rules requiring the listing of the “sold” price of homes, and will allow agents to clearly state this requirement to their clients when the listing takes place. Mr. Eaton said about 90% of all sales statewide are in the MLS database, so the “sold” price is an important statistical component to include.

In answer to committee questions, Mr. Eaton said his Association’s executive committee has recommended that their bylaws be changed to stipulate that

the MLS must share home prices with county assessors. He said the 90% figure includes most residential sales, including agricultural sales; it does not, however, include "for sale by owner" listings.

Jeremy Pisca, chief legal counsel to the Idaho Association of Realtors, was recognized to respond to a question concerning real estate sales contracts. He said the purchase and sale agreement between a real estate agent and a client includes the provision that the sale price is not confidential. He said this legislation will not affect "for sale by owner" transactions since it applies only to sales involving a real estate agent.

MOTION

Rep. Snodgrass moved to send **S 1401** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Snodgrass** will sponsor the bill on the floor.

S 1393

Alex LaBeau, executive director of the Idaho Association of Commerce and Industry, presented **S 1391**. Mr. LaBeau explained that this legislation deals with non-compete agreements between employers and employees. He said the courts have said such agreements are legitimate but they are not going to enforce them. Reviewing key points of the bill, Mr. LaBeau noted that it creates a definition of a "key employee" and a "line of business" and establishes what qualifies as legitimate business interests. He explained the "blue pencil doctrine" which gives a court the ability to modify a contract, based on reasonable standards, if they find some provisions of it unreasonable. He said the bill contains a section defining what an employee can expect to be rebuttable presumptions when an employer files suit to enforce a contract. These presumptions include limiting the time period of noncompetition to 18 months, limiting to a certain defined geographic area, and limiting to a specific type of employment or line of business. Mr. LaBeau noted that businesses still have to file suit in order to enforce these contracts. Mr. LaBeau testified that at the present time attorneys who craft noncompete agreements readily say they are not enforceable.

Jeremy Pisca, an attorney who assisted with the drafting of the bill, was recognized to respond to a question about whether this legislation would apply to health care businesses. One concern with regard to health care professionals is that, under such a noncompete agreement, a doctor may be forced to leave a geographic area in order to meet the requirements of the agreement, but his or her specialty may be needed in that area and there may be no one else to fill the need. Mr. Pisca responded that this situation would fall under a public policy exception, and he pointed out the language on page 1, lines 23-24, "does not impose a greater restraint than is reasonably necessary."

Responding to a question about whether this legislation would negatively impact recruitment, **Mr. LaBeau** said these noncompete agreements are generally entered into by fairly sophisticated employees, and these workers would like to have clear knowledge of expectations. He said no companies who recruit worldwide have indicated they have any problem with the legislation. A question was asked about whether the new law would apply to independent contractors who are hired to develop a specific product for a business, or whether the intellectual property laws would apply. **Mr. Pisca** responded that there are, in fact, trade secret laws but no laws in place to protect customer lists. Asked whether this bill is more, or less, restrictive

than the law in other states, Mr. Pisca said some states have statutes governing noncompete agreements and others do not. He pointed out that S 1391 does not change the court's ability to throw out a contract if it is found to be completely unreasonable; the court can also "blue pencil" portions of the contract.

Asked whether the burden of proof is being shifted to the employee, **Mr. LaBeau** said the employer still has to take direct action to enforce a contract, and he must provide reasonable arguments in support of his case. The employee has the opportunity to show why he won't be damaging the employer. This, according to Mr. LaBeau, is a leveling of the playing field. **Mr. Pisca** pointed out that the initial burden of proof is on the employer, and then the employee has the right to rebut, presenting arguments on his own behalf if the contract is unreasonable. Asked about the definition of "reasonable" and "unreasonable," Mr. Pisca said the "reasonable person" standard is commonly used throughout the civil process, and a judge determines what is reasonable.

Guy Hallam, an attorney, testified **in opposition to S 1393**, saying the legislation will be bad for Idaho business and Idaho employees. Mr. Hallam said he does a lot of work in the area of noncompete agreements, and in his experience the courts are not reluctant to uphold such agreements unless they are unreasonable in terms of time, scope of activities, or geographic area. Mr. Hallam expressed a concern about creating a shortage of physicians in certain areas if the bill passes. He also said the bill does not define "line of business" and does not include a public policy exemption.

Sam Johnson, an attorney appearing on behalf of the Idaho Trial Lawyers Association, testified **in opposition to S 1393**, saying he opposes this bill but does not oppose the purpose of the bill, which is to protect businesses from employees going to competitors and taking clients or business with them. He stated the Idaho Trade Secret Act already protects against the spiriting away of business practices and products, so the purpose of the bill is already accomplished. Mr. Johnson expressed concern over negative effects on the work force as a result of this legislation, stating that the best talent may not come to Idaho.

Responding to a question about "key employees," Mr. Johnson said the ideal time for an employer to enter into a noncompete agreement with an employee might be at the point in time when the employer decides he wants to advance the employee to a key position with the company.

Stephen Freiberger testified **in opposition to S 1393**. He distributed a handout containing information about his own case with a prior employer, JUB Engineers. Mr. Freiberger pointed out two major flaws in the legislation. First, he said, it allows an employer to prevent an employee from working in his chosen profession. Second, it puts the burden of proof on the employee to prove he's not harming the legitimate business interest of his employer. Mr. Freiberger said the noncompete agreement, in his case, was on the back side of his employment agreement. He said the courts found in his favor when his case went to court, and the decision was upheld by the Supreme Court, which said the burden of proof has to be on an employer to prove an employee is affecting its legitimate business interest. Mr. Freiberger said S 1393 tries to blend two factors, anti-piracy and non-compete. He said the

courts have already found this to be over-broad. He said this bill makes the playing field more favorable for employers, and he said there are better ways to solve the problem of enforceability.

Joshua Tolman, representing himself, testified **in opposition to S 1393**. Mr. Tolman said it is his opinion that judges would be willing to enforce the current laws if they were legitimate. He said he is concerned about overly-broad measures that will result in restrictions on someone's right to earn a living. He also has concerns about the top five percent provision, saying that in some large companies this could represent a large number of people, some of whom may be earning only \$50,000 or \$60,000 per year. He said the bill's intent is to apply to people who represent the "face" of the company, and he thinks it should be amended to reflect that.

Tom Arkoosh, representing JUB Engineers, testified **in favor of S 1393**, saying the legislation states exactly what current law is, but clarifies and defines the law. He said the bill does not shift the burden of proof. He said if the bill were in place, the intent of noncompete agreements would be clear. He said if the courts can't find intent, they are not able to "backfill" provisions in a noncompete agreement.

Mr. Pisca was recognized to close testimony on S 1393. Mr. Pisca pointed out that the Hallam case is not a similar case to those anticipated by this legislation, since it involved the sale of a business. He also noted that a number of people testified the legislation simply codifies what is already in case law. Mr. Pisca disputed the testimony that maintained the legislation is unnecessary because protection already exists under the trade secret act. He said he would not be proposing new legislation if no problem existed. Furthermore, he said, if adequate protection does already exist under the Trade Secret Act, this legislation will simply reinforce it.

Mr. LaBeau was asked whether the Idaho Association of Commerce and Industry is supportive of this bill. He said the IACI Board considered the legislation in December and is in favor of its passage.

MOTION

Rep. Patrick moved to send **S 1393** to the floor with a **DO PASS** recommendation. Arguing in favor of the motion, Rep. Patrick said many noncompete agreements are in place but there are no guidelines to govern them. He said this bill will provide good clarification.

Responding to a committee question, **Mr. Pisca** said it is a simple presumption that if you are in the top five percent of a company's employees, you are a "key" employee. He said, however, that this is a rebuttable point, which could be useful for very small companies in which a higher percentage of employees could be considered "key."

Rep. Rusche pointed out that there is no community need exemption in the bill and therefore it could cause a problem with health care providers. He said he is also bothered by the shift in the burden of proof because it presumes someone is guilty until he proves he is innocent.

SUBSTITUTE MOTION

Rep. Rusche offered a substitute motion to **HOLD S 1393** in committee.

Arguing in favor of the substitute motion, **Rep. Durst** said although the bill's sponsor decried the dereliction of duty by the judiciary in not enforcing these contracts, the bill then gives them more responsibility. He said either the judiciary cannot be trusted with more responsibility or we need to acknowledge that they have been doing their job and therefore this bill is not necessary.

Rep. Killen argued in favor of the substitute motion, saying that the bill basically says over 100 years of case law in Idaho is defective or has failed. He said the bill will stack the deck in favor of the employers and said the current system seemed to work fine in the one case that had been presented. He expressed concern about the fact that judges will be required to modify the agreement if it is unreasonable.

Rep. Patrick argued against the substitute motion, pointing out that these agreements are voluntary and negotiable. He said he cannot imagine a court ruling against a doctor remaining in practice due to a noncompete agreement if it is unreasonable. He said Supreme Court cases may be avoided if the contracts are more clearly drawn.

Rep. Crane argued in favor of the original motion, saying that as a business owner he can see the need for the clarification this bill provides.

Rep. Durst argued against the original motion, saying the bill would take away the personal property right of a person to hold a job; he said the legislation is too onerous.

Rep. Henderson argued in favor of the original motion, saying businesses do need a means to protect their proprietary interests. He said it is the responsibility of the employer to list what his legitimate business interests are. He said the burden will be on the drafters of the noncompete contracts to make sure that employees understand them.

**VOTE ON
SUBSTITUTE
MOTION**

Roll call vote was requested on the substitute motion. **Substitute motion failed, 4-11-1. Voting in favor** of the substitute motion: Reps. Smith (30), Rusche, Durst, and Killen. **Voting in opposition** to the substitute motion: Reps. Henderson, Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Bowers and Chairman Black. Rep. Hagedorn was absent and excused.

**VOTE ON
ORIGINAL
MOTION**

Chairman Black called for a vote on the original motion, to send **S 1393** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Reps. Smith (30), Rusche, Durst and Killen voted in opposition to the motion.**

H 585

Rep. Killen presented **H 585**, testifying that this bill is the result of one of the recommendations from an interim study group dealing with usage-related annexation, urban renewal districts, and similar issues. He explained that sellers are required to disclose certain information about the property, and three issues deal with where the property is relative to annexation impact. He said those three appear at the head of the list on the disclosure form. The purpose of this bill is to require that those three points are printed in a larger font size so buyers will more likely be aware of them and therefore will make better informed decisions about purchasing property.

In committee discussion, Rep. Killen said there was testimony before the interim study committee from people who said they did not notice these provisions. **Rep. Black** noted that this bill will eliminate one more excuse for people who say they were not aware of possible annexation of property they purchase. **Mr. Pisca** responded to a question about whether the required form contains just a “yes” or “no” option, or whether there is also a space to respond “don’t know.” He said the Code allows for “alternative forms” so long as they are substantially similar to the requirements set forth in the statute. He said the forms drafted by the Association of Realtors have the “yes,” “no” and “don’t know” responses, and if “don’t know” is marked, that should serve to draw attention to the fact that the annexation possibility needs to be clarified. Rep. Black said it is possible to find out whether a property is in an impact area.

MOTION

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

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:35 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 13, 2008

TIME: 1:30 P.M.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED:** Rep. Bilbao, Rep. Patrick

GUESTS: Val Brooks, LaRaye O'Brien, Tim S. Olson, Mike Walker, Mark Larsen, Colby Cameron, Sen. Dean Cameron, Speaker Lawrence Denney

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

S 1394 **Senator Dean Cameron** presented **S 1394**, a bill dealing with the age of dependents for purposes of health insurance coverage. Sen. Cameron said this bill clarifies and corrects a problem with a 2007 bill that raised the age for which a child could remain on a parent's health insurance policy. Before last year's legislation, the dependent age was set at 19 if a child was not in school and 23 if a child was attending school. Last year those ages were raised to 21 and 25, respectively. Sen. Cameron explained that an inadvertent problem had arisen with large group plans, who were not covered in statute. He said this legislation will correct that problem, addressing all large groups such as government entities, fraternal societies, public service groups and self-funded plans. He noted that one of the benefits of allowing dependent children to remain on their parents' health plans is that it reduces the number of uninsured persons in the state. It also improves overall actuarial statistics by keeping a larger number of relatively young and healthy persons in the pool. This, in turn, helps to keep insurance rates down. Senator Cameron stated that under ERISA, self-funded plans are not governed by state law, but he thinks most self-funded plans will choose to comply with the new age provisions because it will help them reduce costs as well, due to the actuarial advantages of keeping younger persons in their pool.

In response to committee questions about the definition of dependents, Sen. Cameron said the bill defines a dependent as "an unmarried child" who is "financially dependent upon the parent." He said the use of the word "child" to denote persons up to age 25 is not in conflict with the fact that Idaho Code defines a "child" as a person under age 18. He said the major health insurance carriers had all reviewed the legislation and support it.

MOTION **Rep. Mathews** moved to send **S 1394** to the floor with a **DO PASS** recommendation; **motion carried by voice vote.** **Rep. Collins** will sponsor the bill on the floor.

S 1395 **Sen. Cameron** presented **S 1395**, a bill intended to correct a defect in the

individual high risk insurance pool law. Sen. Cameron said he, Rep. Max Black and Rep. Bill Deal worked together to establish the high risk pool a number of years ago in an attempt to provide insurance coverage for people who otherwise could not obtain health insurance. Sen. Cameron said Idaho's high risk plan is one of the more unique in the nation and is being copied in other states.

Sen. Cameron explained that one of the provisions is a person cannot purchase coverage in the high risk pool if he or she is on another plan or covered under another plan. What this rule did not anticipate is the situation where an individual may reach the lifetime \$1 million benefits limit, which until recently was almost unheard of. He said when a person reaches the lifetime limit of a health insurance policy, the individual then becomes entirely responsible for his own medical expenses. Because of the provisions of the high risk insurance pool, the person cannot join until after he loses the previous coverage. Therefore, his continuing medical claims often end up being paid by the counties until the person can get an application in and qualify for benefits in the high risk pool.

This is the problem addressed by S 1395, which states if a person has a reasonable expectation that he or she will max out lifetime benefits within the next 90 days, then the high risk coverage is available. Sen. Cameron said some concerns were expressed about whether the high risk pool can afford this added burden. He said the pool is financially stable and can absorb this additional coverage. This will also help relieve the county and state indigent funds, according to Sen. Cameron. He noted that **Hyatt Erstad**, Chairman of the Idaho High Risk Reinsurance Pool, and **Bill Deal**, Director of the Department of Insurance, helped in developing this legislation.

MOTION

Rep. Collins moved to send **S 1395** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. Rep. Collins will sponsor the bill on the floor.

Chairman Black asked **Sen. Cameron** to provide further information about the previous bill, **S 1394**, dealing with dependent age. **Hyatt Erstad** was recognized to respond. Mr. Erstad said if a dependent child is not covered under his parents' health insurance, he is required to buy insurance through the college or university. He said these plans often have strict limitations in coverage, citing an example of a student who had cancer and was nearing the maximum benefit payout from his student health insurance. In that case, the student was able to migrate into the high risk pool. **Sen. Cameron** noted that some of the plans offered by the schools are terrible policies, with limits as low as \$25,000, and they are costly relative to the coverage they provide. He said he would prefer a statewide health plan that would cover students regardless of which school they attended in Idaho. He said he does not know how many additional young people will remain on parents' policies under this legislation.

H 620

Speaker Lawrence Denney presented **H 620**. Speaker Denney explained that this legislation replaces two previous bills he had drafted and printed by the Business Committee earlier this session. He said the legislation is being proposed to address a problem brought to his attention by a constituent last summer. The constituent had built a driveway on his property that was over 16 feet wide, but in that particular fire district the fire chief enforces the

International Fire Code which requires a minimum 20-foot-wide driveway. In order to increase the width, the homeowner would have had to spend approximately \$30,000 to \$40,000. The problem, as explained by Speaker Denney, is that there may be a number of different fire districts within the same county, and the International Fire Code is not routinely enforced countywide.

Speaker Denney said he had received between 50 and 60 e-mails from fire officials across the state in response to his first two bills. He said H 620 is the result of trying to meet the concerns of the fire officials as well as solve the problem of uneven enforcement. He said H 620 will require that those who act as assistants to the state fire marshal shall apply a "reasonable" interpretation of the code. It also requires "uniform training provisions" for those acting as assistants to the fire marshal and sets up an appeals process. Speaker Denney said the legislation will provide more uniform application of the fire code across fire districts in Idaho.

Mike Walker, Professional Firefighters of Idaho, testified **in favor of H 620**, saying that he has talked to a number of fire chiefs and they are also on board with the legislation. He said the provision that made this bill acceptable is that enforcement authority stays in the hands of those who are trained and know about fire safety and life safety.

Mark Larsen, State Fire Marshal, was recognized to respond to a question about who will pay for the required training. He said his office is a division of the Department of Insurance and that he currently delivers fire training as well as fire investigation services. He said there is no charge for the training.

Bill Deal, Director of the Department of Insurance, was recognized to answer a question about whether a homeowner would have a problem getting insurance if his driveway is outside the size limitations required by fire code. He said that under basic underwriting provisions the width of the driveway is not a problem. He said the issue is that fire districts have a difference of opinion as to how wide a driveway needs to be, and this bill will make those disagreements more easily settled.

Mr. Larsen responded to a question about "assistants" and whether volunteer fire fighters are covered by the provisions in the bill that deal with assistants to the state fire marshal. He said a "fire district" means a tax-based fire protection district; a subscription district does not have the ability to enforce the fire code. He said in those cases enforcement is up to the county sheriff, who can make the fire district chief his special deputy. Mr. Larsen said this arrangement, whereby the sheriff deputizes a fire district chief, has worked well.

A clarification was requested regarding where the responsibility lies for training those who will serve as "assistant" state fire marshals. Mr. Larsen said he fully expects that his department will continue to offer that training. He said the training for putting out fires is available through professional/technical education, and his staff trains for prevention of fires and the application of the fire code.

MOTION

Rep. Killen moved to send **H 620** to the floor with a **DO PASS**

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

PRESENTATION Chairman Black introduced Val Brooks of the Idaho Credit Union League to make a brief presentation to the committee on financial literacy. Chairman Black said he used to speak to high school students and would challenge them to read the book, "The Richest Man of Babylon," promising \$100 to any student who would do so. He said he never had to pay anyone the \$100, although he did require his future son-in-law to read the book before he would agree to the marriage.

Val Brooks, Idaho Credit Union League, testified that she had worked in credit unions for 23 years prior to coming to the credit union league. During that time she said she spoke to high school and junior high school students and conducted financial counseling sessions with credit union members. She introduced LaRaye O'Brien to speak about the high school curriculum on financial literacy developed by the National Endowment for Financial Education (NEFE).

Ms. O'Brien said Americans are now at a negative savings rate and most are financially unprepared for retirement. She said we suffer from record high credit debt, and this debt is starting at an earlier age because of the easy availability of credit cards. In addition, Americans are encouraged to buy, buy, buy but do not have an appreciation of the consequences of overspending. The presence of payday lenders, the subprime mortgage crisis, and record bankruptcy rates are all symptoms of a growing crisis in personal financial management.

Ms. O'Brien presented details of the NEFE high school financial planning program, saying it is performance-based and contains seven target competencies, namely: 1) Students create a personal financial plan, learning about wants versus needs. 2) They create a personal budget, based on their own personal goals. 3) They learn about investing, or how they can make their money work for them. 4) They learn about good debt and bad debt, about handling and managing debt. Ms. O'Brien said 36% of high school students have credit cards and are using them. 5) They learn about how to keep their money safe and secure, how to use various financial services, how to write a check and balance a checkbook. They learn about fees charged for checking accounts and the consequences of using the account inappropriately; they also learn how to apply for a loan. 6) They learn about insurance to protect what they have, and how to create a personal insurance plan. 7) Finally, they learn about careers, about various career choices, and about how their own career choice will affect their financial plan. For instance, they learn that they may have to adjust their financial plan once they learn how much it will cost to attain their career goal.

Ms. O'Brien said there is no cost to the school or the teachers for this financial education curriculum. She said teacher training is provided by the Extension Service and the Credit Union League, and there is additional training on the union's website. She said every student receives his own student workbook and guide and every teacher is provided with a teacher's guide. There are also data disks available, spreadsheets, power point presentations, and other resources available, all free of charge. She said Idaho ranks sixth in the nation for percentage use of this program. She said a similar program in financial literacy has just been released for college-age

students, and she noted the program is being used in Idaho's correctional institutions as well as women's shelters. The program is available to church groups as well, for use with their youth groups, or even for use with their adult members. Ms. O'Brien said the college level program is web-based and is an individual study program.

Ms. Brooks said the program is being promoted throughout the state, and she reported that First Lady Lori Otter has agreed to be an official spokesperson for public service announcements. She said credit and financial education is available to adults through credit unions or banks as well as credit counseling services; in addition, one-on-one counseling services can be recommended by the Idaho Credit Union League. Chairman Black thanked Ms. Brooks and Ms. O'Brien for their presentation and urged committee members to make this program known in their respective communities.

ADJOURN

Chairman Black announced that the committee will not meet on Monday, March 17. There being no further business to come before the committee, the meeting was adjourned at 4:30 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE March 25, 2008

TIME 1:30 p.m.

PLACE Room 228

MEMBERS Chairman Black, Vice Chairman Henderson, Representatives Collins, Snodgrass, Bilbao, Chadderdon, Anderson, Mathews, Crane, Patrick, Hagedorn, Bowers, Smith (30), Rusche, Durst, Killen

**ABSENT/
EXCUSED** Reps. Hagedorn and Rusche

GUESTS Sen. Goedde, Mike Brassey, Jim Trent, Phil Barber, Paul Jackson

Meeting was called to order at 1:32 p.m. by Chairman Black. **Rep Bilbao** moved to approve the minutes of March 11 as written; motion carried on voice vote. **Rep. Bilbao** moved to approve the minutes of March 13 as written; motion carried on voice vote

SJM 114 **Sen. John Goedde** presented **SJM 114**, a joint memorial to Congress expressing the Idaho Legislature's opposition to the National Insurance Act of 2007. Sen. Goedde stated that in 1945 it was established that individual state insurance authorities would govern insurance in their own states. He said that recently some concern has arisen because of the difficulty of dealing with each of the states on an individual basis in insurance matters. He said there is some movement in Congress to create a bifurcated system of insurance regulation. One of the results of such a system would be that insurance companies would no longer fall under the authority of the Idaho Department of Insurance. Sen. Goedde pointed out that one of the major problems with such a system would be the loss of approximately \$14 billion in revenue to state insurance departments, including some \$80 million in Idaho.

Responding to committee questions, Sen. Goedde said he is not aware of any redeeming qualities of the federal legislation establishing the bifurcated system, and he suggested there may be insurance industry representatives who could explain why it may be advantageous to deal with one federal agency rather than with fifty individual state agencies. He said the language in the memorial came from model language recommended by the National Conference of Insurance Legislators. He also noted that he had discussed it with the director of the State Insurance Department, who thought it was a good idea to pass the memorial.

MOTION **Rep. Patrick** moved to send **SJM 114** to the floor with a **DO PASS** recommendation.

Arguing against the motion, **Rep. Durst** said the committee should have been given a copy of the federal legislation addressed by the joint memorial, as well as the memorial itself. He also noted it may not be appropriate for the state legislature to take a position on federal legislation. Arguing in favor

of the motion, **Rep. Mathews** said it is appropriate for the state of Idaho's elected officials to give Idaho's Congressional delegation guidance in matters such as this. **Sen. Goedde** said he does not know what the position of the Idaho delegation is on this legislation.

Phil Barber, appearing on behalf of the American Insurance Association, testified on SJM 114. Mr. Barber stated he is not opposed to the memorial since he supports Sen. Goedde and the Director of the Idaho Department of Insurance. He explained, however, that he can understand the intent of the federal legislation, which is aimed at larger states which have elected insurance directors. He said in such states the insurance commissioner's job is often seen as a stepping-stone to higher office and is sometimes held by ambitious politicians. Mr. Barber said the federal legislation is not necessary for states like Idaho, where the Department of Insurance has been run by a series of excellent directors. He said there is a great deal of non-uniformity among states but Idaho is working hard to develop a greater degree of uniformity. Mr. Barber wanted to be clear in stating that this legislation is not a reflection on anything negative going on here in Idaho.

**VOTE ON
MOTION**

Chairman Black called for a vote on the motion to send **SJM 114** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Durst** voted against the motion. Rep. Snodgrass will sponsor the bill on the floor.

Chairman Black announced that he is not aware of any further legislation to come before the Business Committee, but he advised the members that he will call a meeting if it becomes necessary. Chairman Black recognized the service of Legislative Page **Elijah Roberts**, who has been assigned to the committee for the second half of the session.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 1:45 p.m.

Representative Max Black
Chairman

Mary Lou Molitor
Secretary