

House Business Committee

Minutes
2009



MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 13, 2009

TIME: 1:30 P.M.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: Colby Cameron, Sullivan & Reberger; Fred Riggers; Dave Curtis, Board of Professional Engineers & Professional Land Surveyors; Sen. John Goedde; Matt Morrison, Pacific NorthWest Economic Region; Sen. Dick Sagness; Michael Chisholm, PNWER; John van Dongen, PNWER; Larry Mitzel, PNWER; Peter Lloyd, Canadian Consul General

Chairman Black called the meeting to order at 1:30 p.m. and welcomed all committee members to the 2009 Legislative session. Members chose their seats according to seniority order. Chairman Black also welcomed members of the Senate Commerce & Human Resources Committee who were attending the meeting, as well as delegates from the Pacific NorthWest Economic Region (PNWER) who are visiting Boise. Committee members introduced themselves and shared brief biographical information. The committee Page, Shirin Johnson, who attends Pocatello High School, was also introduced.

Matt Morrison, Executive Director of the Pacific NorthWest Economic Region (PNWER), introduced **John van Dongen**, Minister of Public Safety and Solicitor General from British Columbia, Canada, who is current president of PNWER. Mr. van Dongen explained the overall mission and vision of PNWER, which is to increase the economic well being and quality of life for all the citizens of the region, including Washington, Oregon, Idaho, Montana, Alaska, Alberta, British Columbia, Saskatchewan, and Yukon. Mr. van Dongen said PNWER aims to identify issues of common interest and facilitate solutions to those problems. He explained that the economy of British Columbia is most similar to the state of Washington, with west coast transportation ports, a resort industry, and a considerable amount of technology. One of the differences between the two is that B.C. does not have large international corporate entities like Microsoft and Boeing. B.C. does, however, have a growing trade relationship with China and Korea, and it serves as a gateway to the Asian Pacific. Mr. van Dongen said B.C. wants to be competitive in the global marketplace, and it supports both small and large business interests. B.C.'s economy has been strong for the last seven years, during which 103 separate tax reductions have been put in place, positively impacting both consumers and business. There has been considerable infrastructure investment by the government and the private sector, including construction in preparation for the 2010 Olympics.

Mr. van Dongen further stated that mining as an industry was virtually dead but has now been built up in Vancouver, which is the global home for several progressive mining companies. Agriculture is also a mainstay of the economy, and oil and gas represent a growing sector. As in other locations, construction and real estate are down, especially residential real estate. B.C. has had reasonable budget surpluses and operates under balanced budget legislation. Mr. van Dongen said that, out of a \$35 billion budget, health care absorbs \$14 billion and education takes another \$8-9 billion.

Michael Chisholm, a PNWER delegate from Saskatchewan, addressed the committee, saying that he is a member of the party that in 2007 defeated a Socialist government that had controlled the province for 45 of the previous 60 years. He said he is a grain farmer by choice, and an accountant by profession. His decision to enter the political arena was based on his watching three of his sons move to other provinces because of the lack of opportunity in Saskatchewan. Mr. Chisholm said his province is a large land base with one-half the arable land area of California, one-third of the world's uranium reserves, and extensive potash deposits. In fact, potash has become a major industry in the province, challenging oil and gas. The province is still highly agricultural and produces the best purebred cattle in North America. They also produce wheat and canola, both for consumption and for biodiesel production.

Mr. Chisholm said 42% of Saskatchewan's budget is devoted to health care, and of that, 80% is wages. Education is their next highest expenditure. He said in the fiscal year just ending, Saskatchewan reduced its debt and now has balanced budgets, which was not the case four or five years ago. He attributed potash and land sales, which were each \$1 billion higher than anticipated, as factors in being able to reduce the debt and balance the budget. Mr. Chisholm said Saskatchewan's trade with Idaho is mainly in the agriculture sector, including machinery, fertilizer, and ag products. He noted that his province has a world-renowned record for the production of seeding equipment.

Len Mitzel, a legislator from Alberta, addressed the committee about his province. He said there is a total population in his district of just 36,000 people, largely a rural/urban mix. Mr. Mitzel said Alberta also has balanced budget legislation. He said Alberta's exports to Idaho total \$295 million and its imports from Idaho total \$135 million. Agricultural exports to Idaho total \$64.5 million; ag imports from Idaho total \$133 million. Mr. Mitzel said the province's "oil sands" are often referred to as "tar sands" but said that terminology seems to have a more negative connotation. He said the oil sands contain 172 billion barrels of proven reserves, in an area equivalent to the size of Florida, although the actual open mine area is equivalent in size to the Kennedy Space Center. He said Alberta is the largest exporter of oil to the U.S. of any country in the world, including Saudi Arabia. He said there are 1.7 trillion barrels of known oil but the technology has not yet been developed to extract it successfully. Mr. Mitzel said Alberta has the second largest supply of oil in the world, and the province sits right next to the world's largest customer, the United States.

Mr. Mitzel expressed Alberta's concerns over a possible embargo on imports from his province, and said there is a need to foster greater understanding of the North American economy as a whole and the fact that we will be dependent upon carbon-based fuels for a long time into the future, even as

other sources are developed and perfected. He said his government insisted on 15% reduced emissions by 2008 from fertilizer and oil sands plants; for those who did not meet that goal, penalties were assessed and placed into R&D funds to find new ways to reduce carbon emissions. Mr. Mitzel expressed his government's support for carbon capture and sequestration, but said they do not believe in "cap and trade" policies, noting that they consider it a transfer of wealth. He said the technology exists to reduce CO2 emissions in a responsible way. He said his province has put \$4 billion into addressing environmental issues, including \$2 billion to public transportation and \$2 billion to clean coal and other technologies. His province, like others, is experiencing a downturn in its economy, so any new projects will be carefully considered

Responding to committee questions, Mr. Mitzel said the biggest negative factor affecting his province's oil companies from being able to ship more oil to the United States is the absence of adequate pipelines. He spoke about a natural gas pipeline that may come through Alberta and continue into the U.S. He also said they would like to increase the current 1.3 million barrels of oil shipped per day to about 3 million barrels per day by the year 2015.

Peter Lloyd, Canadian Consul General in Seattle, addressed the committee, explaining that he is responsible for a territory that includes Alaska, Idaho, Oregon and Washington. Mr. Lloyd said Canada's economic picture is totally different than it was six months ago, and said he expects some federal stimulus will be provided in the budget to be delivered on January 27. He said Canada's economy is somewhat better off than most major economies, but there are still noticeable layoffs and other negative economic statistics. Mr. Lloyd said the amount of business between Canada and the U.S. is unprecedented for any two other countries in the world. He said Canada is the leading trading partner of at least 35 of the 50 states, and it is traditionally among the top three of Idaho's trading partners. Mr. Lloyd said a major sector between the two countries is autos, noting that pieces of a completed vehicle may cross the border seven or eight times. He said Canada and the United States will necessarily weather the current economic storms together since their economies are so tied together. He asked that our legislators help make the U.S.-Canadian relationship as healthy as it can be.

Chairman Black thanked the PNWER delegation for the information about the Canadian economy. He announced that the Business Committee would hold a joint meeting with the Senate Commerce Committee on Thursday, January 15, at 1:30 p.m., to hear a presentation on health care costs.

ADJOURN:

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

Representative Max Black
Chairman

MaryLou Molitor
Secretary

AMENDED MINUTES

**SENATE COMMERCE AND HUMAN RESOURCES COMMITTEE and
HOUSE BUSINESS COMMITTEE**

DATE: January 15, 2009

TIME: 1:30 p.m.

PLACE: Room 117

This was a joint meeting of the Senate Commerce and Human Resources Committee and the House Business Committee with the staff of Blue Cross of Idaho.

MEMBERS PRESENT: **SENATE** - Co-Chairman Andreason, Vice Chairman Coiner, Senators Cameron, Goedde, Lodge, and Sagness [Malepeai]

HOUSE - Co-Chairman Black, Representatives Bilbao, Chadderdon, Crane, Mathews, Patrick, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, and Cronin

MEMBERS ABSENT/ **SENATE** - Senators Stegner and LeFavour

EXCUSED: **HOUSE** - Vice Chairman Henderson, Representatives Collins and Bayer

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

GUESTS: See attached sign-in sheet.

CONVENED: **Co-Chairman Andreason** called the meeting to order at 1:38 p.m..

MINUTES: **Co-Chairman Andreason** welcomed **Steve Tobiason**, General Council for Blue Cross of Idaho, who gave a brief biography of **Dr. Doug Dammrose, Chief Medical Officer, Blue Cross of Idaho**, his medical background and qualifications. **Doctor Dammrose** began by explaining that unreconcilable cost inflation with health care does not always result in getting the best affordability that you would like to see. He said his role is to improve access to care, as well as quality of care and make it affordable. The biggest problem in health care today is the way everyone pays for it. The industry has created incentives that are misaligned and continue to drive certain areas of inflation.

Doctor Dammrose believes Idaho is a unique state and gives real opportunities to attract business and be a healthier community. He said his presentation today will focus on a "Healthier Idaho". Fifteen to sixteen cents of every dollar is going to health care costs and employers have difficulty competing in the world market because of health plan costs. Insurance costs are driven by health care costs. This nation has an unlimited appetite for more services.

What must be focused on is outcomes not more services. The cost of health care insurance is driven by negative health behaviors that are driving up the chronic disease burden. The “more services” mentality has driven up the cost of insurance and out of pocket health care costs which are exceeding the ability for people to pay. Higher costs are not equated with better health care outcomes and results. Uninsured patients drive more late diagnosis, increased costs and cost shifting, and poorer outcomes. We have a system that is not affordable for many today and will not work for everyone tomorrow if costs are not reined in. Patients are receiving only about 50% of care that we know actually works. Employers are struggling to compete globally. States are struggling with balancing budgets to afford better education. Health care spent in Idaho went from \$4 billion in 2000 to \$5.6 billion in 2004 while the positive outcomes for those extra dollars is questionable.

Representative Mathews asked if **Doctor Dammrose** could elaborate on who specifically is absorbing those increased costs, where is the money going? **Doctor Dammrose** explained that during this time there was a \$350 million building project going on to expand a hospital facility, more infrastructure drives more services. This study that was paid for by the legislature has a description of where the dollars were spent. Some of the money was spent on facilities, ancillary services, lab and x-ray. Expanding access without reducing wasteful health care spending will break the bank. Incentives must be promoted that drive efficiency and quality.

Waste occurs in: 1) Behavior: The population must live healthier lifestyles as drug and alcohol abuse, smoking and obesity are causing a burden to the health care system; 2) Clinical readmission to the hospital because of faulty discharge planning; and 3) Operational efficiencies like electronic health records, prescribing and staff turnover all result in increased needless health care costs.

Blue Cross is committed to reducing behavioral waste, encouraging wellness and personal accountability of members, benefit designs, promotion of self-management of chronic diseases, and attempting to eliminate clinic waste in medical management.

In 2020 about 47% of the population will be approaching a chronically ill condition and 70% of the expense will be spent on conditions that could be avoided by personal behavioral change to reduce the chronic care burden. There is a greater need to focus on factors that influence health, particularly on health behaviors where investment has traditionally been low. Obesity starts at a very young age so Blue Cross hired an employee, who as part of their PHD program, is engaging children in a learning environment to modify their eating habits. About 1,800 preschool age children throughout the state have been engaged in a program called “Color Me Healthy.” Blue Cross is educating children about healthy food and exercise. The economic benefits to a wellness program on the worksite are improvement in employee morale, improved health, reduced health care costs, less accidents on the job, less absenteeism and increased productivity. Clinical care was explored all over the country by

looking at patients who had died and checking on the care they received over the two years before their death. They researched the differences in that care in these major medical centers and the cost of the care received for the same outcome which was the patient died.

Dr. Dammrose said Blue Cross has found that compliance with appropriately using a medication for a condition is many times determined by the cost of the medication. In order to optimize diabetic control they have removed the co-pays for the medication for 2,500 diabetics with the State of Idaho and are studying them around their compliance if there is no added co-pay for the medicines. This should enhance the way their diabetic control is being managed. A study of 30,000 disease management participants between 2005 to 2007 compared the costs of a group who did not participate in disease management and found that the management group saved \$7.8 million.

Blue Cross is trying to change behaviors in the evidence based medicine to reduce costs. For example: they looked randomly at Sweden, Oregon and Florida to determine how they manage hypertension (high blood pressure) and their procedure to stabilize patients on medicine and the follow-up on the patient's care each year. The Swedish doctor said he would never see the patient. The nurse would call them and make sure they were all right. The Oregon doctor would see the patient twice a year and the Florida doctor would see the patient once a month. This is a very simple condition which has a wide variation in the way the care is delivered and a marked difference in expense and no difference in outcome. Case management is a collaborative process of assessment, planning, facilitation and advocating for a member, options of care to try to improve their outcome.

The purpose of case management is to identify members who could benefit from case management involvement to optimize their function and quality of life for those patients who have an intensive illness or injury and to coordinate and facilitate the delivery of services during the illness episode. Blue Cross is in the process of educating their members on cost containment, increase family and patient awareness, maximize efficiency for utilization of their benefits and monitor activities to assure better outcomes. The types of case management done are acute case management, discharge planning and ensuring better care after the acute stay. They have a nurse on staff that knows every newborn baby in the membership, which ones are in NICU, when they are going home, when they need their prophylaxes for respiratory virus and they are able to be on top of the patient and intervene.

Dr. Dammrose said as part of the state mental care pilot, special nurses are employed that have knowledge in mental health and have had benefit by understanding that much of the medical cost is driven by mental health issues. Patients who go to the emergency room with an overdose or with other medical issues are being driven to the emergency room by inadequately cared for mental health problems. When you put all these factors together in medical management it saves about \$130 million out of \$1.3 billion. This is a sizeable amount of impact on what dollars, if they

were not saved, would have gone to even higher premiums. The quality improvement programs are meant to try to drive quality and reduce variations in the hospital and physician community. They measure the performance and look at qualified providers that are outstanding in the way they provide services and make an effort to raise the bar for everyone.

Blue Cross looks at process, outcome and quality of care measures and identifies opportunities to help members become healthier by the activities that they provide. Comprehensive diabetes patients who had poor control, A1C greater than 9, have through managed care lowered that to 12.2% the national average is 45%. Blue Cross has paid for performance with participating rural and urban hospitals since 2005 allocating \$1.7 million of extra money that goes to hospitals for meeting process and outcome measures for quality. The goal is for changing reimbursement from a fee for service method of payment to a more global desire for physicians to get paid rather than paying for a population. Another goal is paying for outcomes, process improvement and trying to identify centers of excellence. They are working with the spine surgeons locally to try to identify how to make them centers of excellence in what they do. **Vice Chairman Coiner** said that speaks to your administrative cost only, is that correct? **Dr. Dammrose** said that was correct.

Vice Chairman Coiner asked, "Have you followed what your providers' administrative costs have done in the same time period?" **Dr. Dammrose** replied that they are faced with an incremental increase each year and they are not going to pay that increase. They are assuming that this incremental cost is based on their added cost of staff and their overheads. They have engaged a group of physicians in the last year to try to improve their administrative efficiency and have suggested a number of things like group purchasing for the office, grants for their technology, etc. He said he did not know the exact amount of their administrative overhead.

Dr. Dammrose said the solution we need are outcomes not more services. If we were to say we are going to improve the access today and change the way we are spending now, with mark variations, we will definitely break the bank. They need to design benefits and provide payments for services that are proven to work and no pay for ineffective treatment. They need to promote an efficient delivery system based on access to primary effective care and support an ideal coverage for everyone. Imagine Idaho with a healthy economy that attracts businesses, an efficient low cost health care delivery system and healthy citizens which make businesses want to come to Idaho.

Representative Mathews asked, "How much do medical administrators drive United States decision as to what tests are given or how medicine is practiced in order to achieve business goals?" Administrators need to change to the philosophy of better outcomes so they don't need to buy more MRI machines. You don't just build more infrastructure and not expect to have a business model that does not drive up more costs.

Senator Sagness questioned how pharmaceuticals factor into health

care costs. **Dr. Dammrose** said the spending on retail pharmacy would be 15% of the total health care dollar. Cost of specialty drugs that fall under the medical benefits can run \$30,000 per month. Sixty-seven percent of all prescriptions filled are now generic and that is saving an incredible amount of money.

Senator Sagness questioned if medical schools' philosophies and teaching practices reflect the change in accordance with relationship to needed changes in medical practice. The Doctor responded "no." The fill rate of residencies in primary care right now is only 8%. Mentors at medical schools say never go into primary care as it does not pay enough. If they want a life, they need to go into an expensive specialty in which there are far too many doctors now.

Representative Bilbao stated that 100 years ago you could go to the doctor and you were lucky if you had a nurse. You could walk in and get treated and there was very little paperwork. Today when you are treated there are rows and rows of records. If you go to the hospital's record department, there are vast rooms of records. All this costs money for records clerks to file and locate. The cost to run the business office of a practice and coordinate with an insurance company to pay the doctor for the services and also extracting the money from the patient are high administrative costs. The Medicare and Medicaid rules and all other health agencies that place demands on the practices business office along with the lights, equipment and personnel drive the costs.

Dr. Dammrose stated that what they have done in Idaho is form a co-op between all the rural hospitals in the State and through this co-op they purchased everything from band-aids, CT's, MRI, etc. on a cooperative basis which has cut the cost for rural hospitals. Still the administrative costs are quite large. You cannot keep people in a rural hospital 45 miles from St. Al's or Mercy Hospital and not pay them equal to what they are receiving in Boise. Otherwise the people leave and you do not have staff to attend to the patients. **Representative Bilbao** said he was in one of their pilot projects under the generic drug program and it worked beautifully, because not only did it cut their cost, it cut his cost. His doctor who had him on the program could find no difference within the blood tests between having him on generic over traditional drugs.

Representative Durst stated he had two questions: One, regarding medical price transparency, could you speak to the role that Blue Cross may not have in reducing costs in health insurance and medical access for the people of Idaho? **Dr. Dammrose** replied everyone needs to do a better job of exposing what is the real value of health care. An economist once said "health care is like a credit card that never came due" because no one really understands what it really costs them until it is too late. It is critical that we figure out some way to create some transparency around the value of services. There are problems in the way that we are interfacing in demonstrating what those costs are, proprietary issues, and contractual issues. He said there needs to be a better way to demonstrate to a patient what the value of the service is and what it will cost. This will allow patients to make better shared decisions about their

care.

Representative Durst said his second question deals with the likelihood of some reforms at the federal level whether or not newly appointed Secretary of the U.S. Department of Health and Human Services, Tom Daschle, has some significant changes that will take place. What is your sense of whether Idaho will be able to be better positioned, not only as a State, but also as a large State, to provide access to people here in the State? **Dr. Dammrose** responded that he did not know how the federal platform would shake out. He received a recent document that he encouraged all to read by the “National Quality Forum” on national priorities and goals for health care which includes all the items they have been talking about. It includes reducing waste, driving efficiency and engaging people to take better care of themselves. He said all of those things will be a part of those federal level reforms. He thinks that Idaho has some unique opportunities that we should look for a way to build more collaboration. We are an unusual State, in that we have few dense population centers with a relatively small number of physicians. I think that people want to do the right thing and that if we collectively push for the same types of things we can set an example in our nation.

Co-Chairman Andreason thanked **Dr. Dammrose** for his informative presentation to the joint committee.

Co-Chairman Black stated he had viewed Blue Cross’ programs in the fall and happened to be on one of their programs which is the diabetes management program. It has had an effect on the personal management of his condition. On this program, he would stop and think about what he was eating. The incentive for his managed care is when he refilled his medication. He does not have to pay his co-pay because he follows their program. If he does not stay on the program, he will have to start paying his co-payment for his medication again.

ADJOURNMENT **Co-Chairman Andreason** adjourned the meeting at 2:53 p.m.

Senator John Andreason
Chairman

Carol Deis
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: January 19, 2009

TIME: 1:30 P.M.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Rep. Bayer

GUESTS: Dave Curtis, Board of Professional Engineers and Professional Land Surveyors

Meeting was called to order at 1:30 p.m. by **Chairman Black**, who reminded the committee members that they are always free to ask any procedural questions at any time. He asked that all members show due respect to members of the public who testify before the committee, and reminded them that sometimes members of the public are nervous and unsure of themselves when appearing. **Rep. Bilbao** moved to approve the minutes of January 13 as written; **motion carried on voice vote.**

RS 18219 **Dave Curtis**, Executive Secretary of the Board of Professional Engineers and Professional Land Surveyors, presented **RS 18219**, which will smooth out the budgeting process for the Board by eliminating a pass-through cost for examinations. Since applicants would pay their examination fee directly to a third-party vendor, the Board will not collect them and will not have to project a budget amount for payment of these fees. The amount of the fee will not increase, but only the party to whom the fee is paid.

For the benefit of new committee members, **Chairman Black** reminded them that the motion today on RS 18219 will be simply to introduce the RS to print. He said the bill will then be scheduled for a full hearing at a later date, at which time it can be studied more extensively.

In response to committee questions, Mr. Curtis explained that the Board has had an allocation for payment of exam fees, but that allocation falls short during periods when there is an inordinately large number of applicants. Making it a pass-through fee will eliminate the need to project an allocation amount that will be adequate to cover large numbers of applicants. He said the board will still collect an application fee, but if the applicant is assigned to take the examination, he or she will pay the examination fee directly to the contracted examining entity.

MOTION **Rep. Collins** moved to **introduce RS 18219; motion carried on voice vote.**

Chairman Black asked Vice Chairman Henderson to assume the chair for

the purpose of assigning a subcommittee to study Administrative Rules. **Vice Chairman Henderson** named the following representatives to the Administrative Rules Subcommittee: **Reps. Chadderdon, Patrick, Gibbs, Jarvis, Palmer, Thompson, Durst and Cronin**. He invited any other Business Committee members to serve on the subcommittee if they wished to do so.

Chairman Black explained that new members of the committee are assigned to the Rules Subcommittee in order to give them an opportunity to acquaint themselves with the various agencies whose rules are reviewed by the Business Committee. His recommendation is that the subcommittee members contact the heads of the departments and visit their offices. He considers this a valuable experience when constituents bring problems or concerns to individual legislators and seek their help.

Since the Business Committee will not meet on Wednesday, January 21, Subcommittee **Chairman Henderson** proposed that the subcommittee further divide itself into three smaller groups, each of which could visit two or three agencies on Wednesday afternoon. He also reminded the subcommittee members that their role is to review the rules and make a recommendation to the full committee, but not to approve or reject any of the rules.

After committee discussion, the following groups were formed to visit various agencies: 1) Reps. Henderson, Gibbs, Cronin and Durst will visit the Department of Finance and the Department of Insurance. 2) Reps. Black, Patrick and Palmer will visit the Division of Building Safety and the Real Estate Commission. 3) Reps. Chadderdon, Thompson, and Jarvis will visit the Board of Professional Engineers and Professional Land Surveyors, the Occupational Licensing Bureau, and the Board of Accountancy. The committee secretary will arrange the Wednesday afternoon visits with the various agencies.

Although he is not serving on the subcommittee, **Rep. Rusche** asked to be notified when the Department of Insurance rules on health plans are presented.

Chairman Black announced that the full Business Committee will not meet on either Wednesday, January 21 or Friday, January 23.

ADJOURN

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

Representative Max Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

Administrative Rules Subcommittee

DATE: January 23, 2009

TIME: 1:30 PM

PLACE: Room 228

MEMBERS: Subcommittee Chairman Henderson, Representatives Chadderdon, Patrick, Gibbs, Jarvis, Palmer, Thompson, Durst, Cronin

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

GUESTS: Steve Keys, Division of Building Safety; Carl Lohrengel, Division of Building Safety; Patrick Craig, Division of Building Safety; Jack Rayne, Division of Building Safety; Jerry Peterson, Building Trades; Al Caine, Division of Building Safety; Tom K Brown, State Electrical Board; Katie Killpack, Division of Financial Management; Benjamin Davenport, Risch Pisca

Meeting was called to order at 1:30 p.m. by Chairman Henderson, who recognized **Steve Keys**, Deputy Administrator of the Division of Building Safety. Mr. Keys noted that several of the Bureau Chiefs from the Division, as well as the head of the State Electrical Board, were present at the meeting to offer their expertise in response to questions or concerns.

Docket No. 07-0102-0801 **Mr. Keys** presented **Docket No. 07-0102-0801**, which changes the electrical permit fee basis for large residences (over 4500 square feet) to a square footage-based fee in lieu of a job cost basis. He said this change was requested by the industry and is consistent with the fee basis for smaller residences. The proposed fee will be a base fee of \$325 plus \$65 for every 1000 square feet or portion thereof beyond 4500 square feet. Mr. Keys said the rule also clarifies that the square footage includes only living space. By way of historical background, he explained that last year the Division moved to a uniform basis for plumbing, electrical and HVAC fees, based on square footage.

Mr. Keys said there was some concern expressed in the Senate Commerce Subcommittee's meeting this week over this fee change, and the rule was held by them, pending further information being supplied by Mr. Keys. Mr. Keys said the Senate Subcommittee will re-hear this rule change on February 3.

In response to committee questions, Mr. Keys said the square footage area is based on finished floor area, regardless of whether it is main level or basement. He said the rule seeks to clarify that only "living space" is included in the square footage for purposes of the fee; garage space is not included.

MOTION **Rep. Palmer** moved to recommend approval of **Docket No. 07-0102-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0203-0801 **Mr. Keys** then presented **Docket No. 07-0203-0801**, which is the plumbing version of the “square-footage-basis” rule as explained in the previous docket. Mr. Keys said the plumbing industry was informed of these rules and had no problem with the proposed changes.

MOTION **Rep. Cronin** moved to recommend approval of **Docket No. 07-0203-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0701-0801 **Mr. Keys** asked the indulgence of the subcommittee to next consider **Docket No. 07-0701-0801**, which is the last item on the agenda. He explained that this is the HVAC version of the same “square-footage-basis” rule as previously proposed for plumbing and electrical permit fees.

MOTION **Rep. Thompson** moved to recommend approval of **Docket No. 07-0701-0801** to the full committee; **motion carried on voice vote.**

Docket No. 07-0206-0801 **Mr. Keys** then presented **Docket No. 07-0206-0801**, a pending rule that will authorize the use of non-water urinals when appropriate in buildings and other facilities. He said these non-water urinals play a key role in green buildings and in achieving LEED certification of facilities. The use of non-water urinals saves significant amounts of water, and such fixtures have been successfully installed in specific test sites across the state, including Bogus Basin Ski Resort, BSU Stadium Skyboxes, and ITD rest areas.

In response to committee questions, Mr. Keys said there were long discussions at the Plumbing Board about the advisability of such urinals, and the Board initially resisted the idea. After deliberation, the Board approved specific test sites and carefully monitored them. Following this test period, they reached the conclusion that these urinals would be a good option. Mr. Keys said no negative comments had been received on this rule change.

Asked about specific cost figures, Mr. Keys said he did not have detailed information. He said he thinks the savings realized from non-water urinals would come from water savings, rather than initial cost, since the units are probably significantly more expensive than regular urinals. Mr. Keys noted that these installations are entirely optional, up to the discretion of the building or facility owner. He also said there is a requirement that regular water lines will also be installed in case the urinals have to be retrofitted in the future. Mr. Keys said that concerns over the possible lack of sanitation were expressed by the plumbing board, but after the initial testing period it was determined that sanitation was more dependent upon regular maintenance, regardless of whether the urinals were the standard type or the non-water type.

MOTION **Rep. Cronin** moved to recommend approval of **Docket No. 07-0206-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0301-0802 **Mr. Keys** presented **Docket No. 07-0301-0802**, a rule which will increase the inspection fees that manufacturers pay for inspections required by the HUD manufactured housing program. The current per-floor fee would increase from \$26 to \$45, and the hourly inspection fee for other inspections would increase from \$36 to \$70. Mr. Keys said the increases are necessary because the current fees do not support the cost of the program. He also said the changes are endorsed by the affected manufacturers in Idaho.

MOTION **Rep. Gibbs** moved to recommend approval of **Docket No. 07-0301-0802** by the full committee; **motion carried on voice vote.**

Docket No. 07-0402-0801 **Mr. Keys** then presented **Docket No. 07-0402-0801**, which corrects an improper reference to the title of an ANSI/ASME Standard. He said the correct title for ANSI/ASME Standard 17.5 is "Elevator and Escalator Electrical Equipment." This is essentially a housekeeping matter; the title is incorrect in the current rule.

MOTION **Rep. Palmer** moved to recommend approval of **Docket No. 07-0402-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0402-0802 **Mr. Keys** presented **Docket No. 07-0402-0802**, which implements an hourly fee in lieu of the flat fee imposed for the re-inspections of elevators. The upper limits referenced in Idaho Code would still impose a limit on the total re-inspection fee that could be imposed. Mr. Keys said that under the new rule, the agency would be able to charge \$100 per hour in lieu of a flat \$250 or \$500 fee. He said that in almost all cases this change will result in a cost reduction to the elevator or building owner.

Responding to committee questions, Mr. Henderson said the elevator industry and building owners and managers are in favor of this change. He said that in the past the bureau would sometimes waive the inspection fee because it was disproportionate to the time involved in an inspection.

MOTION **Rep. Cronin** moved to recommend approval of **Docket No. 07-0402-0802** by the full committee; **motion carried on voice vote.**

Docket No. 07-0501-0802 **Mr. Keys** presented **Docket No. 07-0501-0802**, a pending rule that establishes the financial requirements and documentation required for applicants applying for an "unlimited" class Public Works Contractors license. He explained that this rule implements the statutory changes put into place last year regarding Public Works Contractors license classifications. For the benefit of the new members of the Subcommittee, Mr. Keys explained that when a public facility is built, a public works contractors license is required. He said there are multiple categories of such licenses, including building contractors, heavy industrial, and specialty licenses. Previously, the largest category, AAA, was an "unlimited" category, meaning that AAA contractors could work on all jobs regardless of value. He said the industry and the Public Works Contractors Licensing Board decided it was time to establish a new "unlimited" category and to limit the AAA category to \$5 million. The new unlimited category has higher financial and experience requirements than the AAA category.

MOTION **Rep. Jarvis** moved to recommend approval of **Docket No. 07-0501-0802** by the full committee; **motion carried on voice vote.**

There being no further business to come before the committee, the meeting was adjourned at 2:00 p.m.

Representative Frank Henderson
Subcommittee Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

Administrative Rules Subcommittee

DATE: January 27, 2009

TIME: 1:30 PM

PLACE: Room 228

MEMBERS: Subcommittee Chairman Henderson, Representatives Chadderdon, Patrick, Gibbs, Jarvis, Palmer, Thompson, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: David Curtis, Board of Professional Engineers and Professional Land Surveyors; Andy Mork, Geology Board; Roger Hales, Idaho Bureau of Occupational Licensing; Tim Haener, ACEC Idaho; Jerry Peterson, Building Trades; Steve Keys, Division of Building Safety; Carl Lohrengel, Division of Building Safety; Katie Killpack, Division of Financial Management; Jeremy Chou, ACEC Idaho

Meeting was called to order at 1:30 p.m. by Chairman Henderson.

MOTION **Rep. Thompson** moved to approve the subcommittee minutes of January 23 as written; **motion carried on voice vote.**

Docket No. 24-0201-0801 **Roger Hales**, an attorney representing the Bureau of Occupational Licensing, presented **Docket No. 24-0201-0801**, a rule from the Board of Barbers. Mr. Hales explained that 2008 legislation allowed the Board of Barber Examiners to use a third party for examination administration, and this rule implements that law change. Exams are now given in several locations across the state, making it more convenient for applicants. The legislation also eliminated a requirement that students register with the Bureau, and it allowed the Board to accept alternative evidence, such as a college degree, to prove that an applicant has a high school diploma. The pending rule in this docket establishes these changes in the Board's administrative rules.

Responding to committee questions, Mr. Hales clarified that a person who holds a license as a barber teacher or instructor does not have to hold an additional barber license in order to practice the trade of barbering. He also said the minimum of a tenth-grade education for applicants has been a long-standing statutory requirement in the state of Idaho.

MOTION **Rep. Patrick** moved to recommend that **Docket No. 24-0201-0801** be approved by the full committee; **motion carried on voice vote.**

Docket No. 24-0401-0801 **Mr. Hales** then presented **Docket No. 24-0401-0801**, which allows the same third party testing entity for cosmetology examinations. The rule also allows the Board to terminate an application process, after a 30-day notification period, if there has been no activity on the application for a period of five years. The rule will also delete the requirement that applicants must pass

a jurisprudence exam; instead, they will simply need to certify that they know the laws and rules and agree to abide by them. Finally, it removes the requirement that schools register all students with the Board.

Responding to committee questions, Mr. Hales said these changes were proposed by the Board of Cosmetology. He said the ability to terminate an application process after five years will eliminate excess paperwork. He explained that requiring a signed testimony of an applicant's familiarity with the rules and agreement to follow them is the common method used in other professions.

MOTION

Rep. Chadderdon moved to recommend that **Docket No. 24-0401-080** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
24-0401-0802**

Mr. Hales presented **Docket No. 24-0401-0802**, a fee rule that will decrease the initial license fee and renewal fee, and will eliminate an examination fee, since this will now be paid directly to the third party administrator. Mr. Hales explained that the Bureau of Occupational Licensing is presenting a number of fee rules this year, about half of which are reductions in fees. He said the Bureau provides support for at least 25 different professional licensing boards, and therefore are able to realize increased efficiency and economy. The Bureau will realize a net \$67,000 reduction in overall fees this year, with some boards raising their fees and some boards decreasing fees.

MOTION

Rep. Jarvis moved to recommend that **Docket No. 24-0401-0802** be approved by the full committee; **motion carried on voice vote.**

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

Mr. Hales presented **Docket No. 24-0701-0801**, a temporary rule that brings the rules of the Board of Landscape Architects into alignment with changes made by 2008 legislation. Mr. Hales explained that last year the Legislature changed the law dealing with the Landscape Architect Model Rules of Professional Conduct, and the rules that reference those new model rules need to be updated.

MOTION

Rep. Thompson moved to recommend that **Docket No. 24-0701-0801** be approved by the full committee; **motion carried on voice vote.**

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

Mr. Hales presented **Docket No. 24-0801-0801**, a rule that specifies experience requirements for mortician internships. He explained the difference between morticians and funeral directors, saying that morticians can plan and conduct funeral services as well as embalm, while funeral directors can only plan and conduct services but not embalm. This rule change implements the experience requirement for morticians that was passed into law during the 2008 legislative session.

MOTION

Rep. Chadderdon moved to recommend that **Docket No. 24-0801-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
24-0801-0802**

Mr. Hales presented **Docket No. 24-0801-0802**, which removes a discrepancy. Mr. Hales explained that in 2001 the Board set a reinstatement fee of \$250, but the corresponding rule was not changed. This was

overlooked for a number of years, and this rule will clear up the discrepancy by bringing the rule into compliance with the law.

- MOTION** **Rep. Thompson** moved to recommend that **Docket No. 24-0801-0802** be approved by the full committee; **motion carried on voice vote.**
- Docket No. 24-1801-0801** **Mr. Hales** presented **Docket No. 24-1801-0801**, dealing with real estate appraisers. This rule updates the version of the Uniform Standards of Professional Appraisal Practice. Mr. Hales said a federal subcommittee decides which edition of this manual should be used, and states must follow the specified edition. The rule also clarifies the time frame for continuing education courses from two (2) years to twenty-four (24) months. Mr. Hales said there could be some ambiguity over whether “two years” meant two calendar years, so the new rule clarifies that the time period is 24 months.
- MOTION** **Rep. Cronin** moved to recommend that **Docket No. 24-1801-0801** be approved by the full committee; **motion carried on voice vote.**
- Docket No. 24-2101-0801** **Mr. Hales** then presented **Docket No. 24-2101-0801**, a rule of the Idaho State Contractors Board that will allow the board to terminate an application for a license if there has been no activity for a 12-month period. A 30-day notice must be given before such termination would take place.
- MOTION** **Rep. Patrick** moved to recommend that **Docket No. 24-2101-0801** be approved by the full committee; **motion carried on voice vote.**
- Docket No. 14-0101-0801** **Mr. Hales** presented **Docket No. 14-0101-0801**, rules from the Board of Registration of Professional Geologists that are the result of a law passed last year which allowed the Bureau of Occupational Licensing to support this board. These rules clarify that relationship and update the geologists’ board law. For instance, since many duties are now performed by the Bureau, the Board no longer needs a secretary. The fee structure is being moved to a different section within the rules. Also, as with other boards supported by the Bureau, renewals will be on the individual’s birthday. Mr. Hales said the new rules were reviewed with the Board of Engineers as well as the Engineering Association, and no concerns were expressed.
- Responding to committee questions, Mr. Hales said there are 559 licensed geologists in the state of Idaho. He also clarified that the examination fee is a pass-through national exam fee.
- MOTION** **Rep. Gibbs** moved to recommend that **Docket No. 14-0101-0801** be approved by the full committee; **motion carried on voice vote.**
- Docket No. 33-0101-0801** **Jeanne Jackson-Heim**, Executive Director of the Idaho Real Estate Commission, presented **Docket No. 33-0101-0801**. Ms. Jackson-Heim explained that real estate licensees have a continuing education requirement, and the approved topics for continuing education are contained in their Rule 402. The rule changes included in this docket rearrange the existing language and add a simple statement that all continuing education topics must pertain to real estate brokerage practice and actual real estate knowledge, rather than listing specific topics that are acceptable. Ms. Heim
- said the rule changes were prepared in consultation with the state Realtor association, and no public comment was received.
- MOTION** **Rep. Durst** moved to recommend that **Docket No. 33-0101-0801** be

approved by the full committee; **motion carried on voice vote.**

**Docket No.
10-0101-0801**

Dave Curtis, Executive Director of Idaho Board of Professional Engineers and Professional Land Surveyors, presented **Docket No. 10-0101-0801**, which deals with the rules of procedure for the Board. It makes terminology changes that are necessary because of 2008 legislation. It includes recognition of a PhD degree as an exemption from the need for independent evaluation of engineering education and clarifies that the Board will not ask another jurisdiction to proctor examinations. It also clarifies that an applicant who fails an examination for a second or subsequent time must comply with the requirements contained in HB 380 passed in 2008.

MOTION

Rep. Thompson moved to recommend that Docket No. **10-0101-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
10-0102-0801**

Mr. Curtis then presented **Docket No. 10-0102-0801**, dealing with rules of professional responsibility. He explained that this docket makes further changes as necessitated by HB 380 passed in 2008. It removes an ambiguity relating to the sealing of documents and allows the Board to take disciplinary action if a licensee surrenders his or her license in another jurisdiction for reasons that would constitute a violation of Idaho laws or rules. He said there is no fiscal impact resulting from these changes, and said certain changes were made after public comment was received on the proposed rules.

MOTION

Rep. Cronin moved to recommend that **Docket No. 10-0102-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
10-0103-0801**

Mr. Curtis presented **Docket No. 10-0103-0801**, rules dealing with corner perpetuation. The rule makes some technical changes such as correcting the address of the Board office, and makes other changes to comply with the 2008 legislation contained in HB 380. It also clarifies that the corner record on a survey must include a sketch of the marks on a found monument. Mr. Curtis said some minor grammatical changes were made following the public comment period.

MOTION

Rep. Patrick moved to recommend that **Docket No. 10-0103-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
10-0104-0801**

Mr. Curtis then presented **Docket No. 10-0104-0801**, which contains provisions for continuing professional development for engineers. Mr. Curtis said there has been increasing pressure to require continuing education for engineers, and he said the stakeholders are on board with this rule change. He said the new rules specify which kinds of activities qualify for continuing professional development and they also specify a two-calendar-year period for renewals. Mr. Curtis said the rules also note that any seminars and courses registered with the Registered Continuing Education Providers Program of the National Council of Examiners for Engineering are pre-approved. In addition, a time card or expense sheet relating to such courses will be accepted as proof of continuing education activities. Finally, the rules spell out the conditions under which self-study will be documented and accepted.

In answer to committee questions, Mr. Curtis said most other states do not

accept “self-study” courses in satisfaction of continuing education requirements. However, with the increasing availability of internet courses, the Board thinks that, with proper documentation, such courses can be accepted. He pointed out that the proportion of continuing education requirements that can be fulfilled through self-study is relatively small, thus discouraging dishonest licensees from exploiting this provision.

MOTION

Rep. Thompson moved to recommend that **Docket No. 10-0104-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
07-0103-0801**

Steve Keys presented **Docket No. 07-0103-0801**, which clarifies that one must possess an electrical contractor’s license in order to advertise to provide services requiring licensure as an electrical contractor. This proposal is driven by a dramatic increase in advertising by unlicensed providers on such sites as Craig’s List. Mr. Keys said prior language stated a license was necessary if one “offered” services, but the Board now realizes that more specific language is necessary.

Responding to a question about what kinds of electrical work can be performed by a “handyman” who does not possess an electrical license, Mr. Keys said such a person would be limited to very low-voltage applications such as wiring doorbells or changing light bulbs. An unlicensed person cannot work on any live voltage wiring projects.

MOTION

Rep. Durst moved to recommend approval of **Docket No. 07-0103-0801** by the full committee; **motion carried on voice vote.**

**Docket No.
07-0205-0801**

Mr. Keys then presented **Docket No. 07-0205-0801**, which clarifies that one must possess a plumbing contractor’s license in order to advertise to provide services; essentially this is the plumbing version of the previous rule docket. It does contain one additional stipulation, that a plumbing contractor needs to list his license number in his advertising. Mr. Keys explained that this requirement reflects the fact that plumbing licenses are individual licenses. He also noted that the plumbing industry has been informed of these rule changes and they have broad support among plumbers.

Mr. Keys asked **Carl Lohrengel**, Plumbing Bureau Chief, to respond to a question about what kinds of plumbing functions can be performed by a person who does not hold a license. Mr. Lohrengel said such work is restricted to the clearing of drains, the repair of leaks in faucets, and the repair of pipes if such repair does not entail moving plumbing pipes. Mr. Lohrengel said work on a valve in a toilet can also be done by a non-licensed person; this would be similar to changing the washers in a faucet.

MOTION

Rep. Cronin moved to recommend approval of **Docket No. 07-0205-0801** by the full committee; **motion carried on voice vote.**

**Docket No.
07-0105-0801**

Mr. Keys presented **Docket No. 07-0105-0801**, which will raise the minimum pass percentage on the electrical contractor exam to 75% from the existing 70% threshold. He explained that the pass rates on this exam are higher than in other trades, and the electrical board is currently changing the pass threshold and also the content of the examinations. He said the exam is currently an open-book exam. He also clarified that new electrical contractors either need to hold a master electrician’s license or employ a

master electrician on their staffs.

MOTION **Rep. Patrick** moved to recommend approval of **Docket No. 07-0105-0801** to the full committee; **motion carried on voice vote.**

Docket No. 07-0204-0801 **Mr. Keys** then presented **Docket No. 07-0204-0801**, which would modify the existing administrative rule requirement for inspection tags in plumbing, eliminating the requirement for multiple tags of specific colors. Mr. Keys showed examples of the 25 separate tags that were previously required, as well as an example of the new single tag which includes various sign-off spaces.

MOTION **Rep. Gibbs** moved to recommend approval of **Docket No. 07-0204-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0701-0802 **Mr. Keys** presented **Docket No. 07-0701-0802**, the HVAC version of the previous docket, which eliminates the requirement for multiple tags in HVAC inspections.

MOTION **Rep. Cronin** moved to recommend approval of **Docket No. 07-0701-0802** by the full committee; **motion carried on voice vote.**

Docket No. 07-0301-0801 **Mr. Keys** then presented **Docket No. 07-0301-0801**, which formalizes the adoption of the 2006 International Building Code and the International Residential Code. It also adopts the 2006 edition of the International Existing Building Code. Mr. Keys said this rule was promulgated as a temporary and pending rule following the adjournment of last year's legislative session, since legislation that would have addressed building codes failed during the 2008 session. He said the Division has some knowledge of pending legislation that will address this issue going forward, but the rule is necessary at this time. He explained that the 2006 editions were adopted by Building Code Board, but then the Legislature inadvertently passed a law referring to the 2003 building codes. This rule provides a "patch" until the proper statutory changes are put in place.

In response to a committee question, Mr. Keys said the rules do not use the term "current" edition when specifying which rules are to be followed because sometimes the current version may encompass some requirements that the State of Idaho is not comfortable with. For instance, the 2009 edition of the International Residential Code would require sprinklers in all residences, a requirement that Idaho does not wish to follow.

MOTION **Rep. Durst** moved to recommend approval of **Docket No. 07-0301-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0303-0801 **Mr. Keys** presented **Docket No. 07-0303-0801**, which formalizes the types of actions that may subject manufacturers and installers of modular buildings to civil penalties. This authority to impose these penalties is found in Chapter 43, Title 39, Idaho Code.

Responding to committee questions, Mr. Keys said the modular home industry is aware of this change and supports it. He said the dollar amounts for the proposed penalties are consistent with other penalty amounts in the

Division of Building Safety.

MOTION **Rep. Gibbs** moved to recommend approval of **Docket No. 07-0303-0801** by the full committee; **motion carried on voice vote.**

Docket No. 07-0203-0802 **Mr. Keys** presented **Docket No. 07-0203-0802**, which establishes plumbing permit fees for inspection of gray water systems and reclaimed water systems. The fee for residential applications is \$130; fees for inspection of reclaimed water systems would be calculated at the same rate as industrial and commercial applications.

Responding to the committee's questions, Mr. Keys said gray water and reclaimed water systems are prime components in many "green" buildings and they are also necessary to achieve LEED certification for such buildings. He explained that "gray" water is typically water that is recovered from residential uses such as laundry, showers, and sinks. Its only application is for underground irrigation systems; it cannot be used on the surface.

Carl Lohrengel was recognized to explain what "reclaimed" water is. Mr. Lohrengel said that, unlike "gray" water which does not require treatment, "reclaimed" water requires tertiary treatment by a UV or chlorination system before it can be re-used. This type of water is used only in commercial applications.

Mr. Lohrengel explained that the \$130 inspection fee is in addition to the plumbing inspection fee for a residential plumbing permit, but pointed out that much more time will be needed to inspect the gray water system in addition to the basic plumbing system. He said the gray water systems are separate systems, with outdoor as well as indoor components. Inspection includes a determination on the placement of wells and the fields where drainage will take place. He said this kind of inspection could take multiple trips, but he acknowledged that there is already a process in place to charge for extra trips and extra inspections.

MOTION **Rep. Cronin** moved to recommend approval of **Docket No. 07-0203-0802** by the full committee; **motion carried on voice vote.** **Reps. Patrick, Jarvis, Palmer and Thompson** requested that they be recorded as **voting no.**

Docket No. 07-0501-0801 **Mr. Keys** presented **Docket No. 07-0501-0801**, which is a temporary and pending rule that establishes the new license fee associated with the "unlimited" license classification; it also defines examination requirements for Public Works Contractors.

MOTION **Rep. Jarvis** moved to recommend approval of **Docket No. 07-0501-0801** by the full committee; **motion carried on voice vote.**

Chairman Henderson announced that the Business Committee will hold a meeting at 1:30 p.m. on Thursday, January 29. Following that meeting, this subcommittee will meet to consider the remaining administrative rules, namely, rules from the Department of Finance, the Board of Accountancy, and the Department of Insurance. Chairman Henderson said that **Rep. Chadderdon** will chair the subcommittee meeting on Thursday, since he will not be able to attend.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 3:02 p.m.

Representative Frank Henderson
Subcommittee Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** January 29, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** None
- GUESTS:** John Mackey, United Heritage Financial Group; Mike Larsen, Idaho Department of Finance; Barbara Porter, Idaho State Board of Accountancy; Joie McGarvin, AHIP; Colby Cameron, Sullivan Reberger
- Meeting was called to order at 1:30 p.m. by Chairman Black.
- MOTION** **Rep. Bilbao** moved to approve the minutes of January 19 as written; **motion carried on voice vote.**
- RS 18392** **John Mackey**, representing United Heritage Financial Group, presented **RS 18392**, which will align current Idaho Code more closely with the provisions of the National Association of Insurance Commissioners Life and Health Insurance Guaranty Model Act. Mr. Mackey said this measure will afford more protection for policyholders in the event their life or health insurance company should become insolvent. He said the Idaho Life & Health Insurance Guaranty Association supports the legislation and assisted in its preparation, and the Department of Insurance is aware of it as well. Mr. Mackey said the fiscal impact to the state cannot be determined because of the uncertainty of events that would trigger an assessment of member insurance companies.
- MOTION** **Rep. Collins** moved to **introduce RS 18392; motion carried on voice vote.**
- RS 18255** **Bill Deal**, Director of the Department of Insurance, presented **RS 18255**, which will enable the Department to regulate group supplemental health plans. By way of background, Mr. Deal explained that in current Code the Department can regulate individual supplemental health policies sold in Idaho, but not policies that are gathered together or “stacked” and sold as a group policy, as a replacement for major medical plans. Supplemental health policies include such things as hospital confinement policies, doctor policies, or even cancer insurance; these policies have limited benefits and multiple deductibles.
- MOTION** **Rep. Rusche** moved to **introduce RS 18255; motion carried on voice vote.**
- RS 18256** **Mr. Deal** then presented **RS 18256**. He said the Department of Insurance

has the responsibility of maintaining an investigation department, whose primary mission is to investigate fraud. Department investigators sometimes accompany and assist law enforcement personnel in obtaining and executing search warrants in cases involving insurance-related crimes. The difficulty arises because the Department's investigators are not allowed to actually enter the premises being searched and have to depend upon law enforcement officials to gather evidence. Because of this, the law enforcement personnel sometimes do not gather all the necessary evidentiary items. This proposed legislation will allow the Department's investigators to join law enforcement as they make a search.

Responding to committee questions, Mr. Deal repeated that his Department is not authorized to initiate a search warrant but can cooperate with law enforcement to obtain one. He also said his investigators do not carry weapons, even though at times they may be involved in a dangerous search situation.

MOTION

Rep. Smith moved to **introduce RS 18256; motion carried on voice vote.**

ADJOURN

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

Administrative Rules Subcommittee

DATE: January 29, 2009

TIME: Upon Adjournment of Business Committee

PLACE: Room 228

MEMBERS: Subcommittee Chairman Henderson, Representatives Chadderdon, Patrick, Gibbs, Jarvis, Palmer, Thompson, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: John Mackey, United Heritage Financial Group; Mike Larsen, Idaho Department of Finance; Barbara Porter, Idaho State Board of Accountancy; Joie McGarvin, AHIP; Colby Cameron, Sullivan Reberger

Meeting was called to order at 1:55 p.m. by **Chairman Henderson**, who announced that **Rep. Chadderdon** would be handling the consideration of rule dockets at today's meeting. He also asked **Bill Deal**, Director of the Department of Insurance, whether he would be available and willing to meet with subcommittee members immediately following the meeting to explain his department's upcoming legislation on viatical policies. Mr. Deal agreed to do so.

MOTION **Rep. Chadderdon** moved to approve the minutes of the January 27 meeting as written; **motion carried on voice vote**. Rep. Chadderdon assumed the chair of the subcommittee.

Docket No. 12-0110-0701 **Michael Larsen**, Consumer Finance Bureau Chief of the Idaho Department of Finance, presented **Docket No. 12-0110-0701**. He explained that this provision was first adopted in late 2007 as a temporary rule and that this year's docket will make the rule permanent. Mr. Larsen gave some background information about Idaho's participation in an effort to develop a nationwide mortgage licensing system, which is now in place and operating well. The benefits of such a nationwide system include the ability to track unprofessional operators who move from state to state in order to defraud the public. Mr. Larsen said the new system is a benefit to both regulators and consumers. This rule has the support of the Idaho Association of Mortgage Brokers and the Idaho Mortgage Lenders Association.

Mr. Larsen explained some of the specific provisions of the rule, saying it defines a "credit hour" as 50 minutes of instruction and it requires a minimum of two credit hours in ethics as part of the mortgage industry's biennial 16-credit-hour requirement for continuing education. It also defines federal laws and regulations, adds specific dates, and requires brokers, lenders and loan originators to be licensed through the Nationwide Mortgage Licensing System (NMLS) beginning January 2, 2008.

MOTION **Rep. Gibbs** moved to recommend that **Docket No. 12-0110-0701** be

approved by the full committee.

Mr. Larsen was asked why there is not a provision to charge more for those who choose to file paper applications rather than filing electronically. Mr. Larsen explained that the Department does offer a paper alternative as well as electronic filing, but to date no one has pursued that method of filing. Therefore, he believes the electronic filing is being well received and obviously widely used, and he does not think a disincentive such as a higher charge for paper filing is necessary at this time.

**VOTE ON
MOTION**

Rep. Chadderdon called for a vote on the motion to recommend approval of **Docket No. 12-0110-0701**; **motion carried on voice vote.**

**Docket No.
01-0101-0801**

Barbara Porter, Executive Director of the State Board of Accountancy, presented **Docket No. 01-0101-0801**. She explained that this rule change is the result of 2008 legislation brought by the Idaho Society of CPAs to remove the notice and fee for licensees in other jurisdictions who offer services to Idaho clients, and to clarify the use of Peer Review records in disciplinary matters. The rule also makes other changes to the Board's operations. Ms. Porter said the Board issued multiple newsletters dealing with the changes and held meetings around the state, as well as posting the changes on their website. The Board also developed a task force between Board representatives and Idaho's two professional accounting organizations to develop the ethics CPE component of the rules. Ms. Porter said their licensees have successfully made the transition to the new requirement.

MOTION

Rep. Thompson moved to recommend that **Docket No. 01-0101-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
18-0144-0801**

Bill Deal, Director of the Idaho Department of Insurance, appeared before the committee to present administrative rules changes from his department. He introduced **Shad Priest**, Deputy Director of the Department, who oversees the promulgation of their rules, and **Mark Larsen**, State Fire Marshal, both of whom will be available to answer questions if needed.

Mr. Deal presented **Docket No. 18-0144-0801**, noting that during the past two years the Department has put greater emphasis on electronic filing and processing. He explained how this has greatly increased their efficiency and reduced the turnaround time for applications. This rule is aimed at encouraging greater use of electronic filing, by imposing a \$20 per-form fee for companies who file in excess of ten paper forms. Mr. Deal said a few small domestic insurance companies bring in three or four rate filings per year and they will not be charged the fee unless their filings exceed ten per year. Mr. Deal said there has been no opposition expressed to this change.

MOTION

Rep. Cronin moved to recommend that **Docket No. 18-0144-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
18-0109-0801**

Mr. Deal then presented **Docket No. 18-0109-0801**, which will extend the annuity sales protections to all consumers rather than just senior citizens. He said there is no opposition to this change.

MOTION

Rep. Jarvis moved to recommend that **Docket No. 18-0109-0801** be

approved by the full committee; **motion carried on voice vote.**

**Docket No.
18-0129-0801**

Mr. Deal presented **Docket No. 18-0129-0801**, which will eliminate the discretionary clauses in nonemployer (i.e., individual) health insurance contracts. He said many of these policies have a clause which gives the insurer sole discretion to determine an individual's eligibility for benefits, and sometimes treatments and services are decided solely on the carrier's judgment. Mr. Deal said this change will afford greater consumer protection. The discretionary clauses will still remain in group contracts, where the employer has the ability to negotiate terms of the contract. Mr. Deal said this is a consensus rule and it has no opposition.

Answering committee questions, Mr. Deal said this rule applies only to individual policies and will not affect discretionary clauses in group policies. He said the Department has received a number of complaints based on experimental treatments or medical necessity. Until this rule change, those complaints have been resolved by the Department and the insurance company. Mr. Deal said legislation forthcoming this year will establish an independent third-party review process to deal with disapproved health insurance claims. He said he does not think this will result in increased individual health insurance costs.

MOTION

Rep. Gibbs moved to recommend that **Docket No. 18-0129-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
18-0139-0801**

Mr. Deal presented **Docket No. 18-0139-0801**, which deals with rebates and illegal inducements in title insurance business. Mr. Deal explained that in a case before a hearing officer last year, the officer ruled that the Department's current rule goes beyond the scope of Idaho insurance statutes by prohibiting producers of title insurance from having a financial interest in a title entity. This docket repeals the existing rules. The following docket will clarify what is prohibited by providing a requirement that producers of title insurance provide disclosure of any financial interest they may have in a title entity to which they refer title insurance consumers.

MOTION

Rep. Gibbs moved to recommend that **Docket No. 18-0139-0801** be approved by the full committee; **motion carried on voice vote.**

**Docket No.
18-0139-0802**

Mr. Deal presented **Docket No. 18-0139-0802**, which puts in place the new regulations about illegal inducements, as detailed above.

MOTION

Rep. Gibbs moved to recommend that **Docket No. 18-0139-0802** be approved by the full committee; **motion carried by voice vote.**

**Docket No.
18-0143-0801**

Mr. Deal presented **Docket No. 18-0143-0801**, which has to do with certification of fire code officials. Last year HB 620 required training and continuing education for all persons assisting the state fire marshal. This rule implements those provisions. Mr. Deal said there has been no opposition to the rule.

MOTION

Rep. Patrick moved to recommend that **Docket No. 18-0143-0801** be approved by the full committee; **motion carried on voice vote.**

Docket No.

Mr. Deal presented **Docket No. 18-0161-0801**, which will correct obsolete

- 18-0161-0801** code references and terminology and remove inconsistencies with the current law. Mr. Deal explained that insurance agents are now referred to as “producers” and the rules were not updated to reflect that change in terminology.
- MOTION** **Rep. Cronin** moved that **Docket No. 18-0161-0801** be approved by the full committee; **motion carried on voice vote**. **Rep. Jarvis** asked to be recorded as voting no.
- Docket No. 18-0162-0801** **Mr. Deal** presented **Docket No. 18-0162-0801**. He explained that some of the operations of the Department are designed to comply with the National Association of Insurance Commissioners model rules. This rule will be renamed “Annual Financial Reporting” and revised to require that insurers comply with certain best practices suggested by the NAIC related to auditor independence, corporate governance and internal control over financial reporting.
- MOTION** **Rep. Jarvis** moved to recommend that **Docket No. 18-0162-0801** be approved by the full committee; **motion carried by voice vote**.
- Docket No. 18-0173-0801** **Mr. Deal** presented **Docket No. 18-0173-0801**, an amendment to the required benefits for health insurance products reinsured through the Idaho individual High Risk Reinsurance Pool. The lifetime maximum benefit for organ transplants is being increased from \$150,000 to \$250,000. Other changes include a change to a section dealing with cosmetic surgery and some improved terminology to conform to Office of Administrative Rules guidelines.
- Responding to questions, Mr. Deal said he agrees that the \$250,000 is a conservative figure, but he does not anticipate having to increase this figure in the near future. He explained that people often move from their traditional policies to the high risk pool once they exhaust their lifetime benefits.
- MOTION** **Rep. Cronin** moved to recommend that **Docket No. 18-0173-0801** be approved by the full committee; **motion carried on voice vote**.
- Docket No. 18-0177-0801** **Mr. Deal** presented **Docket No. 18-0177-0801**, which allows the Director of the Department of Insurance to rely on a foreign (outside of Idaho) or alien (outside the United States) insurer’s home state regulator regarding the preparation and filing of an actuarial report. Mr. Deal explained that Idaho does not have an actuary in the Department to deal with these forms, and thus the filing requirement is largely perfunctory. He said an electronic copy is adequate; this rule change will eliminate the necessity of the paper form. He also said there is no opposition to this rule change.
- MOTION** **Rep. Patrick** moved to recommend that **Docket No. 18-0177-0801** be approved by the full committee; **motion carried on voice vote**.
- Docket No. 18-0180-0801** **Mr. Deal** presented **Docket No. 18-0180-0801**, dealing with “pre-need” or burial insurance. He explained that this rule will establish the 1980 mortality table as the minimum standard for computation of policy reserves and nonforfeiture values for pre-need policies. This is based on model regulation developed by the National Association of Insurance Commissioners.

Mr. Deal reiterated that the 1980 table is the minimum that can be used, although insurance companies can choose to use newer tables

MOTION

Rep. Jarvis moved to recommend that **Docket No. 18-0180-0801** be approved by the full committee; **motion carried on voice vote.**

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:50 p.m.

Representative Frank Henderson
Subcommittee Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 3, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: Dave Curtis, Board of Professional Engineers & Professional Land Surveyors; Jeanne Jackson-Heim, Real Estate Commission; Mandy Wood, Real Estate Commission; Jerry Peterson, Building Trades; Steve Keys, Division of Building Safety; Carl Lohrengel, Division of Building Safety; Katie Kilpack, Division of Financial Management; Shad Priest, Department of Insurance, Joie McGarvin, AHIP; Mike Larsen, Department of Finance; Steve Thomas, Moffatt Thomas; Barbara Porter, Board of Accountancy; Cindy Hedge, AFL-CIO; Ed Hawley, Administrative Rules

Chairman Black called the meeting to order at 1:30 p.m.

MOTION **Rep. Bilbao** moved to approve the minutes of January 29 as written; **motion carried on voice vote.**

Vice Chairman Henderson assumed the chair for the remainder of the meeting.

MOTION **Rep. Chadderdon** moved to approve the minutes of the January 29 subcommittee meeting as written; **motion carried on voice vote.**

Vice Chairman Henderson was asked to report the findings of the Administrative Rules Subcommittee, of which he served as Chairman. He reported that the subcommittee had considered all the rules submitted to it from the Board of Accountancy, the Division of Building Safety, the Board of Professional Engineers & Professional Land Surveyors, the Department of Finance, the Department of Insurance, the Bureau of Occupational Licenses, and the Real Estate Commission. It is the recommendation of the Subcommittee that all pending, temporary and fee rules be approved by the Business Committee. Vice Chairman Henderson also noted, however, that one docket from the Division of Building Safety, **Docket No. 07-0203-0801** dealing with inspection fees for gray water and reclaimed water systems, received a vote of 5 in favor of approval and 4 opposed to approval. Therefore, the Subcommittee Chairman recommended that the Business Committee more fully consider that particular docket.

MOTION **Rep. Chadderdon** moved that the rule from the Board of Accountancy,

Docket No. 01-0101-0801, be approved; motion carried on voice vote.

MOTION Rep. Patrick moved that the rule from the Department of Finance, **Docket No. 12-0110-0701, be approved; motion carried on voice vote.**

MOTION Rep. Gibbs moved that the rule from the Real Estate Commission, **Docket No. 33-0101-0801, be approved; motion carried on voice vote.**

MOTION Rep. Thompson moved that rules from the Board of Professional Engineers and Professional Land Surveyors, **Docket Nos. 10-0101-0801, 10-0102-0801, 10-0103-0801, and 10-0103-0801, be approved; motion carried on voice vote.**

MOTION Rep. Cronin moved that rules from the Department of Insurance, **Docket Nos. 18-0109-0801, 18-0129-0801, 18-0139-0801, 18-0139-0802, 18-0143-0801, 18-0144-0801, 18-0161-0801, 18-0162-0801, 18-0173-0801, 18-0177-0801, and 18-0180-0801 be approved; motion carried on voice vote.**

MOTION Rep. Palmer moved that the following rules from the Division of Building Safety, **Docket Nos. 07-0102-0801, 07-0103-0801, 07-0105-0801, 07-0203-0801, 07-0204-0801, 07-0205-0801, 07-0206-0801, 07-0301-0801, 07-0301-0802, 07-0303-0801, 07-0402-0801, 07-0402-0802, 07-0501-0801, 07-0501-0802, 07-0701-0801, and 07-0701-0802 be approved.**

Rep. Bilbao inquired about the fee rules submitted from the Division of Building Safety, asking what the justification is for raising fees, given the economic situation at the present time. **Chairman Henderson** said he believes some of this year's fee rules actually result in decreases.

Steve Keys was recognized to review the fee rules submitted by the Division of Building Safety. Mr. Keys explained that the change in electrical permit fees, **Docket No. 07-0102-0801**, will allow the Division to base its inspection fee on a per-square-foot basis rather than a flat fee, which will result in a decrease in most inspection fees. The same change is being proposed for plumbing inspections in **Docket No. 07-0203-0801**, and for HVAC inspections in **Docket No. 07-0701-0801**.

Mr. Keys said that **Docket No. 07-0301-0802** will increase the inspection fee for HUD manufactured housing from \$26 per floor to \$45 per floor; he said this increase has been fully discussed with the manufactured housing industry in Idaho and is supported by them.

Regarding the re-inspection fees for elevators and lifts, **Docket No. 07-0402-0802**, Mr. Keys said the fee is changing from a flat fee to a charge of \$100 per hour. This will give the Division the flexibility of charging less, in most cases, than the previous flat fee would have cost. In response to a question from the committee, Mr. Keys said about 90% of re-inspections could be covered in one hour.

The fee in **Docket No. 07-0501-0801** is the new license fee for the "unlimited" public works license classification. Mr. Keys said this charge is

higher than the one for a AAA license but still below the allowable ceiling.

In response to a question about the increase in fees for HUD manufactured housing, Mr. Keys said the current fee schedule has been in place since 1990 and is not now adequate to cover costs. He explained that his personnel act as inspection agents for HUD in the manufacturing plants, and said that the manufacturers all agreed to the fee increase in order to allow the Division to continue providing this service.

**VOTE ON
MOTION**

Chairman Henderson called for a vote on the motion to **approve** the rule dockets from the Division of Building Safety, with the exception of **Docket No. 07-0203-0802**. **Motion carried on voice vote.**

**Docket No.
07-0203-0802**

Steve Keys, Deputy Administrator of the Division of Building Safety, was recognized to further discuss **Docket No. 07-0203-0802**. Mr. Keys said this rule establishes a separate fee for inspection of reclaimed water systems and gray water systems. He said the subcommittee's concern was that an owner would be double charged, once for the regular plumbing system and once for a gray water or reclaimed water system. Another concern that was expressed was over the charge for re-inspections; Mr Keys said subcommittee members wondered why the Division could not just charge \$65 an hour for re-inspections. He said in response to these concerns that in many cases gray water systems are retrofitted after the initial plumbing installation is completed; thus, a separate inspection is necessary. He also said the Division thought this rule change would make it clear to the public that if there is a stand-alone gray water or reclaimed water system, there will also be a separate inspection fee for that system.

Responding to further questions from the committee, Mr. Keys said even in the case of a gray water system that is installed at the same time as the initial plumbing system, there would be a separate fee charged to inspect the gray water system, in addition to the fee for inspection of the rest of the plumbing. Mr. Keys said this proposal was discussed at several board meetings and there was no negative response expressed at those meetings.

Carl Lohrengel, Plumbing Bureau Chief, was recognized to answer questions. He said that gray water systems need to be separate from so-called "black" water systems, which contain solid waste. Inspection of gray water systems take more time and thus require the additional charge. Black water is deposited into a septic system or a city municipal system, whereas gray water can be captured and used for underground irrigation. Mr. Lohrengel said gray water, which is collected from lavatory sinks, showers, and laundries, does not need to be treated before irrigation use. He said the complexity of a gray water system is due to the fact that drain fields, storage tanks, and valves are involved, which make it a far more complicated system than household plumbing.

In further questioning, Mr. Lohrengel was asked how much additional time is involved in the inspection of a gray water system if its installation is completed at the same time as the regular household plumbing system. He said inspection of a regular plumbing system takes between 20 and 40 minutes, and said it would take about twice as long to inspect a gray water system. He also said if a homeowner wants to add a gray water system at some point after construction of the home is finished, the walls would have

to be opened up in order to redirect the piping and properly direct the gray water. This requires an additional exterior and interior inspection.

- MOTION** **Rep. Rusche** moved to **approve Docket No. 07-0203-0802.**
- SUBSTITUTE MOTION** **Rep. Crane** offered a substitute motion, to **reject Docket No. 07-0203-0802.**
- Rep. Durst** argued against the substitute motion, saying that if this rule docket is rejected the Division of Building Safety will have no way of testing or inspecting reclaimed and gray water systems. He said this could pose a significant public health concern.
- VOTE ON SUBSTITUTE MOTION** **Chairman Henderson** called for a vote on the substitute motion to **reject Docket No. 07-0203-0802.** Since the voice vote was unclear, a roll call vote was requested.
- ROLL CALL VOTE ON SUBSTITUTE MOTION** **Substitute motion failed, 8-9. Voting in favor** of the substitute motion: **Reps. Bilbao, Crane, Mathews, Patrick, Bayer, Jarvis, Palmer, and Thompson. Voting in opposition: Reps. Black, Henderson, Collins, Chadderdon, Gibbs, Smith(30), Rusche, Durst, and Cronin.**
- VOTE ON ORIGINAL MOTION** **Chairman Henderson** called for a vote on the original motion to approve **Docket No. 07-0204-0802. Motion carried on voice vote.** The following Representatives asked to be recorded as voting no: **Bilbao, Patrick, Mathews, Crane, Bayer, Jarvis, Palmer, and Thompson.**
- Chairman Black** thanked the members of the committee for their work on administrative rules, noting that Idaho is one of the few states that requires legislative oversight of administrative rules. He also explained that most of the rule changes arise as a result of legislation that is passed during the previous year, as agencies need to conform their rules with the legislation. Chairman Black said Idaho has a process in place to ensure that the legislative intent is properly implemented by the rules that are developed and adopted. He also noted that the rules from the Bureau of Occupational Licensing are still awaiting approval by the Business Committee; these rule dockets should be scheduled within the next week.
- ADJOURN** There being no further business to come before the committee, the meeting was adjourned at 2:10 p.m.

Representative Frank Henderson
Subcommittee Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 5, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: Larry Benton, Benton Ellis; Maribeth Connell, AARP; Ron Hodge, Idaho Medical Association; Steve Millard, Idaho Hospital Association; Toni Lawson, Idaho Hospital Association; Joie McGarvin, AHIP; Pam Eaton, Idaho Retailers Association; Colby Cameron, Sullivan & Reberger; McKinsey Miller, The Gallatin Group; John Mackey, United Heritage Financial Group; Julie Taylor, Blue Cross of Idaho; Steve Thomas, IAHP; David Lehman, KMC; Roy Eiguren, CNA Surety; Bill Peterson, CNA Surety; Tim S. Olson, Regence Blue Shield; Jay Kiima, CNA Surety

Meeting was called to order at 1:30 p.m. by Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of February 3 as written; **motion carried on voice vote.**

RS 18275C1: **Rep. Bob Nonini** presented **RS 18275C1**. He explained that this legislation deals with Idaho's Any Willing Provider Act and, if passed, will be good for health care consumers. Rep. Nonini said some providers have found a way around the provisions of the any willing provider legislation, and their actions have the effect of denying health care. This is primarily a problem in north Idaho. The legislation adds specific intent language and also adds language that will address the problem in north Idaho.

MOTION: **Rep. Thompson** moved to introduce **RS 18275C1**.

Responding to committee questions, Rep. Nonini explained that the any willing provider provisions were put in place after a perceived inequity was noted with regard to insurance companies negotiating rates with just a select group of providers. This has had the effect of denying health care to some people. Rep. Nonini said Blue Cross and Blue Shield contract with the North Idaho Health Network. When another facility approached Blue Cross and asked to be a provider in its network, Blue Cross responded that they do not have a network in north Idaho but instead they contract only with the North Idaho Health Network. The facility has not been allowed into the North Idaho Health Network. Rep. Nonini said if this legislation passes, insurance companies will be required to negotiate in good faith with any qualified provider.

VOTE ON **Chairman Black** called for a vote on the motion to **introduce RS 18275C1**.

MOTION:

Motion carried on voice vote.

Roy Eiguren, an attorney representing CNA Surety Corporation, appeared before the committee to present information on surety bonds. He introduced **Bill Peterson**, Vice President for Public Affairs of CNA Surety, based in Sioux Falls, South Dakota. Mr. Eiguren noted that Mr. Peterson had previously served as majority leader in South Dakota's legislature.

Bill Peterson explained the concept of surety bonds, saying there are two types of surety bonds. The first are contract bonds, which cover bids, performance and payments; these bonds ensure that terms of a contract are met, that the work is done on a timely basis, that laborers are paid, and so forth. The second group are commercial bonds. Mr. Peterson said these are usually required by some level of government, and they involve professionals such as electricians, drywall installers, roofers, and other workers. Mr. Peterson said CNA Surety writes bonds in all 50 states, both at the state and local levels.

Mr. Peterson stated that his industry follows general business cycles, noting that there is an increase in claims when the business cycle declines. Claims began to increase, for instance, last fall. He said that, historically, most state legislatures have ceded responsibility for licensing and bonding of workers to the local government level. Because of the patchwork nature of regulations at the local level, however, many states are moving in the direction of assuming the responsibility at the state level. This is in response to a growing number of consumer complaints that are being received in offices of the Attorneys General. Mr. Peterson said even the contractors themselves are tired of dealing with conflicting requirements among municipalities. In response, they are asking legislators to establish uniform systems at the state level, with one license requirement, one bond requirement, and one insurance requirement, for the sake of uniformity.

Mr. Peterson explained that he and Mr. Eiguren have planned a meeting with Idaho's Division of Building Safety to discuss these trends. He said surety bonds are not expensive to contractors and they provide a significant amount of consumer protection. For instance, a bond generally costs about \$10 per thousand dollars of coverage, so bonding that will provide \$10,000 to \$20,000 in a penalty amount to a consumer would represent an annual cost to a contractor of between \$100 and \$200. Mr. Peterson said these bonds are written through independent insurance agents, and CNA Surety has over 100 agents in Idaho who write them.

In response to committee questions, Mr. Peterson said these bonds can be as broad or as narrow as the state or local governments want. He said they have proven helpful in situations where contractors do not finish jobs or perform the work in a shoddy manner, sometimes not even meeting local building codes. In cases where a consumer is harmed, the consumer can make a claim against the bond and be made whole. He also said that, generally speaking, bonding follows licensure. The first decision, therefore, is to decide whether to require licensure of some type, and the second decision is whether to require some type of consumer protection.

Asked about how Idaho's contractor registration requirement would affect

bonding, Mr. Peterson said that, for bonding purposes, registration and licensure are interchangeable. He said some states require registration while others require licensure. He named a number of states, including Washington, Oregon, Nevada, Arizona and New Mexico, that require both licensure and bonding for contractors who do home improvements.

Chairman Black thanked Mr. Eiguren and Mr. Peterson, noting that this issue will come before the Business Committee in the future, and the information imparted will be helpful when the committee considers bonding requirements for contractors.

RS 18346:

Bill Deal, Director of the Department of Insurance, presented **RS 18346**. He first introduced **Marsha Moers**, Bureau of Consumer Protection, **Shad Priest**, Deputy Director of the Department, and **Tom Donovan**, lead attorney for the Department. Mr. Deal said this legislation will provide protection for consumers who want to transfer their life insurance policies in exchange for compensation. He said the Department has been working for about a year and a half on this legislation, which is patterned after model legislation from the National Association of Insurance Commissioners and the National Conference of Insurance Legislators. Mr. Deal told the committee that in October 2008 Mr. Priest and Mr. Donovan drafted the first version of RS 18346 and circulated it to interested parties in Idaho. The Department has met with most of those parties and has sought their input on possible improvements to the legislation.

Mr. Deal said life settlement transactions have a high potential for fraud. He said most consumers of these products are senior citizens, and it is important for them to have a complete understanding of the settlement contract. Privacy is another potential problem area, because of the necessity of medical records and health conditions in such transactions. Mr. Deal said this legislation does not eliminate life settlements, but it does provide greater transparency in these transactions.

Mr. Deal then provided a brief explanation of the legislation, pointing out that it adds an entirely new section to Idaho Code so it contains many definitions. Included in the legislation are definitions of such terms as "life settlement," "financing entity," "life settlement broker," "life settlement provider" and "owner." In terms of consumer protection, the legislation includes licensing, examination and recordkeeping requirements for brokers and providers, and it requires that disclosure statements be filed with the Department of Insurance. It also includes reporting information, privacy protections, a limitation on when policies can be transferred, and other disclosures. The legislation also includes a definition of "Stranger-Originated Life Insurance" commonly known as STOLI.

Responding to committee questions, Mr. Deal said the Department does not outlaw such policies because a life insurance contract is considered personal property that can be sold or negotiated by the owner. The legislation aims to make these transactions more transparent and thus safer for consumers. It also will attempt to outlaw STOLIs, although Mr. Deal said some of these are written in Idaho. He said most STOLIs are written on older people who have land or other assets and who have little need for life insurance but who can qualify for several million dollars' worth of coverage.

In further discussion, **Mr. Priest** said an insurance producer is required to hold a standard life insurance producer license in order to sell life settlement policies, but no additional license is required. He said a producer who wants to engage in these sales is also required to notify the Department of Insurance; in this way, the Department is able to track their activities.

Mr. Deal told the committee about recent news stories concerning the improper sale of "viatical" policies which have been stacked and sold as securities. He said although these sales fall under the purview of the Department of Finance, his department receives complaints about them, often from investors who are upset because they are required to continue paying premiums for the insured persons who have not died soon enough.

MOTION: **Rep. Crane** moved to **introduce RS 18346; motion carried on voice vote.**

RS 18533: **Pam Eaton**, President, Idaho Retailers Association, presented **RS 18533**. Ms. Eaton said this legislation will put into statute what is already common practice in Idaho, by clarifying that direct sales people do not have to be covered by worker's compensation insurance. She said that such sales people are sometimes unintentionally included in this requirement, and the Retailers are being proactive by clarifying the situation. She gave examples of "direct sales" people, which would include Melaleuca, Mary Kay, Avon, or Amway representatives.

In response to committee questions, Ms. Eaton said the legislation's definition of sales people is taken from the Internal Revenue Service Code Section 3508. She said people who sell items over the internet from their homes are not covered anywhere in current law and would not be affected by this legislation. Ms. Eaton said no change in current law is foreseen; rather, the legislation simply codifies what is already current practice in the state. Asked about the status of call center employees, Ms. Eaton said she was not sure about them but agreed to come back to the committee with additional information on that subject. She also said she would bring direct sellers and other experts who can answer questions during the bill's hearing.

MOTION: **Rep. Bayer** moved to **introduce RS 18533.**

During a brief discussion following the motion, Ms. Eaton told members of the committee that commission sales people who work within retail stores, such as furniture sellers or car dealers, are currently covered by worker's compensation insurance. If this legislation passes, they will remain covered, based on the employment contract they have with their employers.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to **introduce RS 18533. Motion carried on voice vote.**

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** February 9, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** None
- GUESTS:** Dave Curtis, Board of Professional Engineers and Professional Land Surveyors; Roger Hales, Bureau of Occupational Licensing; Woody Richards, Julie Taylor, Blue Cross of Idaho; Tana Cory, Bureau of Occupational Licensing, Paul Jackson, Farmers Insurance; John Mackey, United Heritage Financial Group
- RS 18181:** **Roger Hales**, an attorney representing the Bureau of Occupational Licensing, presented **RS 18181**. Mr. Hales explained that this legislation deals with internship requirements for morticians. It will allow the board to expand the length of an internship beyond two years, if there are extenuating circumstances.
- Responding to questions from the committee, Mr. Hales said the intent of the legislation is to provide more flexibility in training requirements for this profession. He cited instances of apprenticeship periods being interrupted for various reasons including illness or family emergencies. This legislation will allow the board to make a decision on a case-by-case basis as to whether a person needs additional internship time in order to complete his or her requirements.
- MOTION:** **Rep. Jarvis moved to introduce RS 18181; motion carried on voice vote.**
- RS 18183:** **Mr. Hales** presented **RS 18183**, which provides an exemption from the Barbering Act for individuals who are incarcerated. Mr. Hales said the board will leave it up to the correctional facilities to provide barbering services for inmates. He said he does not anticipate a need for the same provision with regard to cosmetology services because this is primarily a barbering issue.
- MOTION:** **Rep. Mathews moved to introduce RS 18183; motion carried on voice vote.**
- RS 18218:** **Mr. Hales** then presented **RS 18218**, which sets a cap of \$500 for applications, renewals, and original licenses for petroleum storage facilities. He said the actual fee, which is currently \$200, will be set by rule. He also noted there are two categories for such licenses, one for dealers and one for storage facilities. This fee cap applies only to the storage facilities, which are generally owned by large corporations who can bear a higher license fee, should one be deemed necessary in the future.
- MOTION:** **Rep. Gibbs moved to introduce RS 18218; motion carried on voice vote.**

RS 18221: **Mr. Hales** also presented **RS 18221**, legislation dealing with qualifications for membership on the Board of Professional Geologists. This legislation will change the eligibility requirement from 12 years of experience to seven years of experience. Mr. Hales said this will allow more licensees an opportunity to serve on the board. Other provisions will allow the board to enter into certain contracts with other states, will clarify the board's subpoena power, will allow some flexibility with regard to disciplinary hearings, and will make other minor changes in certain sections of Idaho Code relating to the geologists' board.

MOTION: **Rep. Rusche moved to introduce RS 18221; motion carried on voice vote.**

RS 18244: **Mr. Hales** presented **RS 18244**, legislation dealing with applicants for licensure as an architect. This legislation clarifies that the required experience for an applicant must take place in an internship setting. It also allows applicants to begin the examination process upon obtaining a degree, or after eight years of experience, but only after they have commenced an internship program.

MOTION: **Rep. Thompson moved to introduce RS 18244; motion carried on voice vote.**

H 1 **Dave Curtis**, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **H 1**, which he characterized as a budget adjustment bill. He explained that under current law an applicant who applies to take an examination for certification or licensure pays one fee. This fee includes an amount that covers the administrative costs incurred by the board, plus the cost of the examination, which is a pass-through cost assessed by a third party test administrator. If the applicant is deemed not qualified to sit for an exam, he or she loses the entire fee, since the fees are not refundable. This bill will separate the administration fee, which will be called an "application fee," from the testing fee, which will be paid by the applicant directly to the testing entity.

Mr. Curtis explained that this legislation will solve a budgeting problem for the board. Currently the board is appropriated a fixed amount of operating expense money, which includes the cost of the examinations and all other operating expenses. Since the board has no way of determining how many applicants it will have in any given year, this budgeted amount sometimes falls short if there is a larger-than-normal number of applicants. By having the applicants pay directly for their examinations, the uncertainty of budgeting for this cost is eliminated. The new process will also reduce the amount of money forfeited by an applicant who does not possess the credentials required by law for assignment to the exam. Mr. Curtis said there has been no opposition to this proposed legislation.

Responding to committee questions, Mr. Curtis said there will be no increase in exam fees to applicants, since this is simply a pass-through fee. He said the exams for engineers is a national exam and is recognized nationally, although the Idaho Board of Engineers received the applicant's score and retains proof of the score. He said a licensee can request that his score be shared with other jurisdictions, and the board does so at no charge.

MOTION **Rep. Patrick moved to send H 1 to the floor with a DO PASS recommendation; motion carried on voice vote. Rep. Patrick will sponsor**

the bill on the floor.

RS 18426: **Rep. Durst** presented **RS 18426**, legislation that intends to create an interim committee to study and recommend solutions to assist small business owners in paying for health insurance for themselves and their employees. Rep. Durst said the cost of health insurance is a hardship for both employers and employees. When small businesses are not able to offer health insurance, they have more difficulty retaining employees. He said he appreciates the work currently being done by other agencies on this topic, but thinks the Legislature should gather all stakeholders at the table for a full discussion of the issue.

In response to committee questions and comments, **Chairman Black** said the term “directs” on the Statement of Purpose should not be interpreted as suggesting that the Legislative Council can compel formation of the interim committee. He noted that leadership still determines which interim committees will be funded. Asked whether he has taken his concerns to the health care task force, **Rep. Durst** said he has done so in the past, but said he has not attended meetings of the Governor’s select committee on health care. **Rep. Collins** reported it is his impression that the Governor’s committee is moving forward with recommendations for both individual and group policies, and he views the formation of an interim committee as a duplication of these efforts.

Rep. Durst said he believes the value of such an interim committee would be to act as a symbol of the Legislature’s concern for small businesses and their health care concerns. He said he is not working on behalf of any specific small businesses, but knows that if the concurrent resolution is printed, a number of small businesses will be interested in testifying on it.

MOTION: **Rep. Rusche moved to introduce RS 18426.**

Chairman Black noted that the federal government is working on the issue of small business health insurance, so information on the topic would be timely. He said he would arrange to have the Governor’s task force on health insurance visit the Business Committee and provide information about their work and the status of their findings. He said this could be done prior to the committee’s consideration of this concurrent resolution.

VOTE ON MOTION: **Chairman Black** called for a vote on the **motion to introduce RS 18426; 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 C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 11, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Rep. Collins

GUESTS: Jim Trent, State Farm Insurance; Bob Corbell, Idaho Mechanical Contractors; Cindie Kinch, Guaranty Association; Amy Butts, citizen; Julie Taylor, Blue Cross; Mckinsey Miller, Gallatin Group; John Mackey, United Heritage Financial Group; Katie Killpack, Division of Financial Management; Daniel Shull; Paul Jackson, Farmers Insurance; Steve Keys, Division of Financial Management; Roger Hales & Tana Cory, Bureau of Occupational Licensing; Jerry Peterson, Building Trades; Cole Pepper, Connolly & Smyser; Joie McGarvin, America's Health Insurance Plans; Bill Spence, Lewiston Tribune

Chairman Black called the meeting to order at 1:30 p.m.

MOTION: **Rep Bilbao** moved to approve the minutes of February 9 as written; **motion carried on voice vote.**

H 40: **John Mackey**, United Heritage Financial Group, presented **H 40**, which will more closely align Idaho Code with the National Association of Insurance Commissioners Life & Health Insurance Guaranty Model. Idaho Code requires that all insurance companies doing business in Idaho be members of the Idaho Life and Health Insurance Guaranty Association, which assumes the risk when insurance companies become insolvent. Mr. Mackey said all fifty states and the District of Columbia have similar guaranty associations in place.

Mr. Mackey said H 40 will expand the coverage to include structured settlements and provide a definition of structured settlements. The bill specifies that Medicare Part C and Part D won't be covered and clarifies that duplication of coverage won't be covered. Mr. Mackey said the primary reason for bringing the legislation is to effect a change in coverage limits, from the current \$100,000 for annuities and \$300,000 for annuitized contracts, to a maximum of \$250,000 for both. He explained that when the FDIC increased its limit to \$250,000, this created an uneven playing field between banks and annuity companies and could mean that assets would be transferred to banks where the insured limit is higher.

Another change contained in the bill will make it permissible for the annuity company to provide written information, in the form of an approved pamphlet, about the guaranty association if a policyholder requests it. In contrast to banks, who can advertise their FDIC guarantees, the annuity companies have not historically been permitted to advertise their guaranty association protection;

under the provisions of H 40, the annuity companies can provide information if it is requested.

Mr. Mackey stated that the financial impact of this legislation cannot be determined at this time, because any financial impact is dependent upon the number of insolvencies and the consequent assessments made on participating companies. Since guaranty association members are allowed to use their assessments to offset premium taxes paid to the state of Idaho, the reduction in premium taxes cannot be calculated in advance with any precision. Mr. Mackey said in the past the offset has not had an appreciable effect on the state's income, and he noted that H 40 deals only with annuity contracts, not with insurance policies.

At the Chairman's request, Mr. Mackey gave a short explanation of Idaho's premium tax, saying that insurance companies are not taxed as corporations by the State of Idaho. Instead, they pay a tax of 1.7% of the premiums they collect. These funds, which are dedicated to the Department of Insurance, are used to pay the department's operating cost, with the excess transferred to the General Fund. Mr. Mackey said the premium tax generates about \$80 million each year, which is the fourth largest source of income to the state.

In response to committee questions, Mr. Mackey said it is difficult to determine how many policies in excess of \$100,000 are in place in this state, since there are about 192 companies that sell annuities in Idaho. In his company, United Heritage Financial Group, 9.5% of the policies are in excess of \$100,000, and 1.5% are in excess of \$250,000. A concern was raised that the "level playing field" created by this bill will become "un-level" again if the FDIC limit reverts to the \$100,000 level. Mr. Mackey said he understands this possibility. He said the language used in H 40 comes from the National Association of Insurance Commissioners Model Act, specifically chosen because it will be acceptable to the majority of state legislatures.

When asked why agents are not authorized to provide information about the guaranty association limits, in the same manner as banks provide FDIC information, Mr. Mackey stated the Idaho Guaranty Association does not want that information to be used as a marketing tool or as an incentive for a client to purchase a product. Mr. Mackey also said that the guaranty association provides protection for any company licensed to do business in the state, not just for companies domiciled in Idaho. He said in the case of a client who has moved from one state to another, it is the guaranty association of the client's current residence that assumes responsibility in the case of default.

During further committee discussion, Mr. Mackey said it is his belief that Idaho's regulators are rehabilitating companies in a more timely manner so there is less insolvency here than in other areas of the country. He also believes the level of premium tax income will stay level for at least another year. The rate has been trending down in the past few years, but should begin to increase as the amount of premium dollars increases in Idaho. Mr. Mackey said he is not aware whether there are any insurance companies in Idaho who are on the verge of insolvency.

Mr. Mackey explained that under the new scheme the annuitant will be guaranteed an income for life, which will be more advantageous to consumers. He said the Idaho Life and Health Insurance Guaranty Association helped develop this legislation, the Department of Insurance is aware of it, and there is no known opposition.

MOTION: Rep. Jarvis moved to send **H 40** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: Rep. Durst offered a **substitute motion**, to send **H 40** to **General Orders**, to set the Guaranty Association's limit at a level that would match the FDIC insured deposit figure so there would be no dispute between the financial sector and the insurance industry. Rep. Durst said he thinks the FDIC guarantee level could move back down to \$100,000 in the future, in which case there would be an unfair advantage in favor of the insurance companies.

VOTE ON SUBSTITUTE MOTION: Chairman Black called for a vote on the **substitute motion**, to send **H 40** to General Orders, in order to change the wording so the Guaranty Association's limit and the FDIC limit would be set at the same figure and therefore track one another. **Motion failed on voice vote.**

VOTE ON ORIGINAL MOTION: Chairman Black called for a vote on the original motion, to send **H 40** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** Rep. Jarvis will sponsor the bill on the floor.

RS 18403C1: Rep. Rusche presented **RS 18403C1**, which makes a minor change in the requirements for family members in health insurance coverage. Rep. Rusche told the committee that, due to current difficult economic conditions, more young people are financially dependent on their parents for a longer period of time, or become so after a period of being employed and independent. He said an increasing number of states are removing the requirement that a child under the age of 25 be a full-time student in order to remain on his or her parents' health insurance policy. This proposed legislation would require only that the child be under age 25 and financially dependent on the parents. Rep. Rusche said the health care task force asked him to provide a definition of "financially dependent." After referring to the Internal Revenue Service definition of "financially dependent," he said the legislation uses the criterion of providing more than half of a child's support during any given year.

Responding to committee questions, Rep. Rusche said a child should be able to be enrolled in the health insurance plan at the time he or she becomes dependent, even if that occurs in the middle of a policy coverage period. He said insurance companies have mechanisms in place to add dependents, just as they do at the time of a child's birth or adoption. **Julie Taylor** was recognized to comment. Ms. Taylor said a child's becoming dependent upon his or her parents would be considered a "qualifying event" and therefore would result in the child being added to the parents' policy. **Rep. Rusche** responded to further committee questions about how a company is able to determine whether a child is "dependent." He said companies have the right to request verification in the form of a simple attestation or by whatever other means are available to them.

MOTION: Rep. Bilbao moved to introduce **RS 18403C1**.

During further committee discussion and questions, **Rep. Rusche** said the dependent child does not need to reside in the household of the parents in order to remain under coverage. He pointed out that allowing these individuals to remain on their parents' insurance would pull a greater number of relatively young and healthy individuals into the insurance pool. Asked about the importance of advance notification before loss of health insurance coverage,

Rep. Rusche said he will address those and other concerns at the bill's hearing before the committee.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to **introduce RS 18403C1; motion carried on voice vote.**

RS 18179C1 **Roger Hales**, an attorney representing the Bureau of Occupational Licensing, presented **RS 18179C1**, which will make technical corrections to the Idaho Contractor Act by changing the insurance requirement from "continued" to "completed" operations. It will also allow the name of the insurance company, the insured, and the policy number to be made available to a person possessing a claim against a contractor. Finally, it will require disclosure by a contractor if he has surrendered his license in another state.

MOTION: **Rep. Mathews** moved to **introduce RS 18179C1; motion carried on voice vote.**

RS 18224
RS 18227
RS 18250 **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **RS 18224**. He explained that this RS proposes changes in the regulations for plumbing and specialty plumbing apprenticeships. He will also present **RS 18227**, similar changes for electrical apprentices, and **RS 18250**, similar changes for HVAC apprentices. Mr. Keys said the legislation establishes a five-year registration interval for plumbing apprentices and a three-year registration interval for specialty plumbing apprentices. He said these time periods should be sufficient to complete training programs. Mr. Keys also said the fee structure is being changed so applicants will pay a \$50 fee that will cover a five-year period. He said someone who enters an apprenticeship program but does not complete the requirements by the end of the five-year period can renew his apprenticeship registration. Mr. Keys said there were some concerns expressed when this legislation was introduced last year, but at this point all differences within the respective industries have been resolved and industry participants endorse these changes.

MOTION: **Rep. Rusche** moved to **introduce RS 18224, RS 18277 and RS 18250; motion carried on voice vote.**

RS 18251: **Mr. Keys** presented **RS 18251**. This legislation will allow the Plumbing Board to establish continuing education requirements for journeymen and plumbing contractors. Mr. Keys said the electrical industry already requires continuing education, and the plumbing industry wants to institute similar requirements. He said there is no opposition to this legislation.

MOTION: **Rep. Smith (30)** moved to **introduce RS 18251; motion carried on voice vote.**

RS 18252: **Mr. Keys** presented **RS 18252**, which updates code edition references to coincide with the latest editions adopted via administrative rule by the Building Code Board and changes the effective date for newly-adopted editions to January 1 of the year following adoption of the code. Mr. Keys said this will allow adequate time for state and local jurisdictions to deal with budgetary and training concerns incumbent with implementing new code requirements. He said this change is widely endorsed throughout the industry and with local governments.

Responding to a question, Mr. Keys said there are occasional problems that arise with national regulations that are not necessarily applicable to Idaho, and he said there is legislation forthcoming to deal with this, prior to the next edition of the building code.

MOTION: **Rep. Bilbao** moved to **introduce RS 18252; motion carried on voice vote.**

RS 18253C1: **Mr. Keys** presented **RS 18253C1**, which will establish qualification requirements for inspectors of modular buildings. Mr. Keys said this change will allow the use of inspectors who are qualified to perform electrical, plumbing and HVAC inspections. This will facilitate the multiple inspections required during in-plant construction of modular buildings.

MOTION: **Rep. Thompson** moved to **introduce RS 18253C1.**

In response to committee questions, Mr. Keys explained that modular inspections are performed for one fee, not three separate fees. Modular inspectors who perform all three inspections are currently included in the same pay rate as other inspectors in the Division of Building Safety. Mr. Keys said the division is working toward a more equitable compensation for an inspector who has multiple certifications, such as those in modular facilities.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to **introduce RS 18253C1; motion carried on voice vote.**

Chairman Black announced that the deadline for RS introduction is Monday, February 16. In order to hear the legislation still remaining in the committee, he will seek designation as a privileged committee from the Speaker. He advised members that if they have any legislation they wish to introduce through the Business Committee, it needs to be submitted to him by Friday, February 13, so it can be placed on the agenda for our next meeting on Tuesday, February 17. Proposed legislation can be introduced through one of the privileged committees after that date, but not through the Business Committee.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** February 17, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** Reps. Jarvis, Thompson
- GUESTS:** Steve Cox, Idaho Association of Mortgage Brokers; Scott Stingley, Idaho Association of Mortgage Brokers; Val Brooks, Idaho Credit Union League; Ken McClure, Givens Pursley; Dede Shelton, AARP; Rod Thayer, Farmers Insurance; Gavin Gee, Idaho Department of Finance; Mike Larsen, Idaho Department of Finance; Paul Jackson, Farmers Insurance; Martin Bilbao, Connolly & Smyser; Brad Hunt, Office of Administrative Rules; Jack Lyman, Idaho Mining Association; Mark Workland, NAPA Auto; Linda Jackson, Idaho Occupational Therapy Association; Tom Birch, Idaho Mortgage Lenders Association; Benjamin Davenport, Risch Pisca; Jeff Enrico, Idaho Association of Mortgage Lenders; John Watts, Idaho Occupational Therapy Association
- Chairman Black called the meeting to order at 1:34 P.M.
- MOTION:** **Rep. Bilbao** moved to **approve** the minutes of February 11 as written; **motion carried on voice vote.**
- Chairman Black recognized **Vice Chairman Henderson** to address administrative rules from the Bureau of Occupational Licensing. Rep. Henderson explained that all rule dockets from the Occupational Licensing Bureau were thoroughly reviewed by his subcommittee, which is recommending that the Business Committee approve them.
- MOTION:** **Rep. Smith (30)** moved to approve all rule dockets from the Bureau of Occupational Licensing, namely; **Docket Nos. 14-0101-0801, 24-0201-0801; 24-0401-0801; 24-0401-0802; 24-0701-0801; 24-0801-0801; 24-0801-0802; 24-1801-0801; and 24-2101-0801. Motion carried on voice vote.**
- RS 18408C2:** **Gavin Gee**, Department of Finance Director, presented **RS 18408C2**. He introduced **Mike Larsen**, Bureau Chief of the Department's Finance Bureau, which is responsible for regulating the mortgage industry. Mr. Gee explained that the federal government, as part of the Housing and Economic Recovery Act of 2008, passed the Safe and Fair Enforcement Mortgage Licensing Act (the S.A.F.E. Act). This federal legislation mandates licensing of all mortgage loan originators. The S.A.F.E. Act requires states to implement a licensing system that will meet the federal minimum standards. Mr. Gee said the U.S. Department of Housing and Urban Development will assess whether each

state has met this federal mandate. He said that RS 18408C2 repeals Idaho's existing law and replaces it with a new Idaho Residential Mortgage Practices Act. This new Act will retain the existing regulatory oversight language and will incorporate the requirements of the S.A.F.E. Act.

The legislation organizes the provisions of the Act into three separate parts. Part 1 includes provisions of general applicability to the entire act; Part 2 includes provisions applicable to mortgage brokers and mortgage lenders operating in Idaho. Part 3, entitled the Idaho S.A.F.E. Mortgage Licensing Act of 2009, implements the requirements of the S.A.F.E. Act to mortgage loan originators operating in Idaho. Mr. Gee stated that the bill establishes a state mortgage recovery fund in place of a surety bond requirement for mortgage brokers, mortgage lenders, and mortgage loan originators.

Mr. Gee said his department had worked closely with the mortgage loan industry. He noted that **Steve Cox**, President of the Idaho Mortgage Brokers, and **Jeff Enrico**, President of the Idaho Mortgage Lenders, were present at the meeting and are supportive of the department's efforts and resulting bill. Mr. Gee said he knows of no opposition to this legislation.

Responding to committee questions, Mr. Gee said numerous consumer groups offered ample testimony before Congressional hearings on mortgage loan regulation, and their concerns are incorporated into the federal S.A.F.E. act. Since this bill is Idaho's implementation of that act, those same concerns are addressed by this legislation as well. Mr. Gee stated that this legislation specifically addresses loan originators but does not address builders or appraisers, since the department's jurisdiction does not extend to those industries. He said the department is coordinating with the Idaho Real Estate Commission and has developed a video training program that deals with mortgage fraud in Idaho. He said the real estate industry is using the video to train agents, and appraisers have also utilized it.

MOTION: **Rep. Patrick** moved to introduce **RS 18404C2**.

Mr. Gee was asked to provide additional information, in the form of a table that would illustrate what is changed and what remains the same in the Idaho Residential Mortgage Practices Act, when the bill comes before the committee for a hearing. He responded that he would have Mike Larsen prepare such an illustration and provide it to the committee.

Asked to more fully explain the state mortgage recovery fund, Mr. Gee said this fund is patterned after other states' recovery funds. Such funds are a growing trend in other states, replacing bonding requirements, because of the difficulty in obtaining bonds. He said the fund is capped at \$1.5 million and there are a number of limitations on it. For instance, a claimant has to go to court and receive a judgment in order to apply for recovery from the fund. Mr. Gee said members of the industry pay into the fund, in an amount approximately the same as they were previously paying to purchase bonds. He said that over time the fund should build up to the point where the assessments can be reduced and the fund will remain at an adequate level.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to **introduce RS 18404C2**; **motion carried on voice vote.**

RS 18483: **Rep. George Eskridge** presented **RS 18483**, which corrects an inequity in the charge a wholesale or retail automotive battery dealer must charge a customer for a core charge as compared to what the dealer currently pays the distributor for the battery core. Rep. Eskridge explained that the distributor of auto batteries charges the dealer \$10, but the dealer can charge only \$5 to the retail purchaser of the battery. He said the \$5 charge is set by statute, whereas the \$10 charge is not set by statute. Distributors are charging the higher amount because of the expense of recycling these batteries. Rep. Eskridge said this legislation will correct the inequity and will also provide a greater incentive to the retail customer to recycle the old battery, since the deposit amount will be higher.

Responding to committee questions, Rep. Eskridge said if the distributor raises the deposit fee again, the Legislature will have to change the amount of the retail deposit to match. He said it is difficult to mandate the amount a distributor can charge, since they operate in other states besides Idaho. He said he would find out what other states have done with regard to these deposit amounts and will bring back that information for the bill hearing.

MOTION: **Rep. Bayer** moved to **introduce RS 18483; motion carried on voice vote.**

RS 18646C1: **Rep. Rusche** presented **RS 18646**, which modifies Idaho Code dealing with payday loans. The legislation contains three modifications. First, it requires that lenders be licensed in Idaho in order to operate here. This is an effort to counteract loan companies who operate on the internet and who avoid Idaho regulations. Second, before a loan is made, payday loan companies must provide a written list of available credit and debt counseling services available in Idaho. Third, it allows a consumer the option of a longer-term payment plan if the consumer is unable to pay off the loan within the currently allowed three renewals of the loan. Rep. Rusche said provisions of this legislation have been borrowed from Washington and Oregon legislation, and he said this will add important protection provisions for Idaho's consumers. Rep. Rusche also said that small, personal loans are not regulated under the Department of Finance and therefore will not be affected by this legislation.

MOTION: **Rep. Smith (30)** moved to **introduce RS 18646C1; motion carried on voice vote.**

RS 18653: **Rep. Smith** presented **RS 18653**. The purpose of this legislation is to inform those whose vehicles have been towed without their consent that charges associated with storage of the vehicle may be incurred. She said this applies only in those situations where a tow company is called to remove a vehicle but the consumer does not have the opportunity to select the towing company or to discuss fees. This generally happens following automobile collisions. Rep. Smith also said the legislation will require consistent recordkeeping by tow operators, will provide maximum storage rates for non-consent tows, and will provide penalties for violations of these provisions. She said currently there is no consistency in the rates charged.

Rep. Smith noted that a change in the RS is being proposed, as follows: On page 2, line 15, the words "without the consent of the vehicle's owner, driver or agent of the vehicle's owner" will be changed to read "where the towing

vendor was not selected by the vehicle's owner, driver or agent of the vehicle's owner."

MOTION: **Rep. Mathews** moved to **introduce RS 18653** with the proposed change; **motion carried on voice vote.**

RS 18670: **John Watts**, appearing on behalf of the Idaho Occupational Therapy Association, presented **RS 18670**. Mr. Watts explained that this legislation amends the current statutes governing the licensing and certification of occupational therapists in Idaho. It will also move the testing and licensing responsibilities to the Bureau of Self-Governing Agencies. Finally, it will provide definitions and establish continuing education requirements. Mr. Watts said the proposed legislation was shared with the medical association, the hospital association, the board of medicine, and other interested parties. He said moving the responsibility to the Bureau of Occupational Licensing makes sense because all other allied health professionals are under the bureau.

Mr. Watts told the committee that some issues concerning the legislation had been raised by the Idaho Medical Association; in addition, he is working with the physical therapy association to address their concerns as well. He said there will be amendments forthcoming to address these issues, should the bill be introduced.

MOTION: **Rep. Bilbao** moved to **introduce RS 18670**; **motion carried on voice vote.**

RS 18509 **Rep. Phylis King** presented **RS 18509**, which will require manufacturers to maintain sufficient service or repair facilities reasonably close to where products are purchased in order to carry out the terms of the warranties on those products. It also provides that manufacturers shall make available sufficient schematics and parts to authorized independent repair facilities so they can repair these products.

In response to committee questions, Rep. King agreed that the terms "sufficient" and "reasonably close" are subjective terms that could be open to interpretation. She said the Attorney General reviewed the legislation and said it was fine. Asked about the economic effect of this requirement on Idaho businesses, Rep. King said in her view it would keep repair people employed. She said it would be a convenience for customers who could get repairs done more quickly and seek competitive bids on such repairs.

A question was raised about who would be responsible, the retailer or the repair facility, for getting schematics or parts. Rep. King said she thought it would be up to the repair facilities to request that parts be shipped to them in an expeditious manner so repairs could be performed. Another question addressed whether or not the requirements would include items covered under so-called "extended" warranties that are purchased to cover products. Rep. King said these would not be covered.

MOTION **Rep. Rusche** moved to **introduce RS 18509.**

Arguing in favor of his motion, Rep. Rusche said although the legislation may need further work, he thinks Rep. King has identified a real problem which deserves further discussion.

In further committee discussion, questions were raised about the interpretation of the “reasonably close” requirement. For instance, if a camera was sold in Post Falls, the legislation could be interpreted to mean that a repair facility has to be maintained in Post Falls, rather than in Spokane or in Coeur d’Alene. **Rep. King** said she understands the concern, but that was not her intent. She said that, in her view, “reasonably close” is a function of time, rather than place, and because of modern overnight shipping options, most repairs could be performed quickly. Other concerns were raised, including the fact that manufacturers may not want to share schematics of their products because of technology that may be patented and/or trademarked.

SUBSTITUTE MOTION:

Rep. Bayer offered a **substitute motion, to return RS 18509 to its sponsor.**

In favor of the original motion, **Rep. Durst** said the intention of the legislation is clear, although the language may need to be clarified. He said it is his opinion that if a person brings an RS to committee, the RS should be introduced unless its provisions are catastrophic. Rep. Crane argued in favor of the substitute motion, saying the legislation will open up a Pandora’s box of complications for retailers and repair facilities. He suggested Rep. King re-work it so it will address the concerns she has regarding repairs.

VOTE ON SUBSTITUTE MOTION:

Chairman Black called for a vote on the **substitute motion to return RS 18509 to sponsor; motion carried on voice vote.**

Chairman Black reminded the committee that print hearings are held in order to determine whether or not to introduce a particular piece of legislation. He noted that there is no inherent right to have a bill printed simply by virtue of the fact that the RS is presented to a committee.

ADJOURN

There being no further business to come before the committee, the meeting was adjourned at 2:30 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** February 19, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** Rep. Gibbs, Rep. Smith (30)
- GUESTS:** Steve Brignone, citizen; Shad Priest, Department of Insurance; Elwood Kleaver, Idaho Association of Health Plans (IAHP); Tim S. Olson, Regence Blue Shield; Jack Lyman, Idaho Housing Association; Dede Shelton, AARP; Steve Thomas, IAHP; Erin Armstrong, Risch Pisca; Tamara Mossino, citizen; Dave Whaley, AFL-CIO; Jerry Peterson, Building Trades; Cindy Hedge, AFL-CIO; Rep. Phylis King; Miguel Legarreta, Idaho Association of Realtors; Julie Taylor, Blue Cross; Alex LaBeau, Idaho Association of Commerce & Industry; Lyn Darrington, Regence Blue Shield; Jeremy Pisca, Alliance of Automobile Manufacturers/Idaho Association of Realtors
- Chairman Black** called the meeting to order at 1:30 p.m.
- RS 18566:** **Rep. Patrick** presented **RS 18566**, legislation that is designed to protect consumers from deceptive advertising in the sale of motor vehicle service contracts. It will not prohibit this advertising, but will require a clearly-worded statement notifying the consumer when such a contract is offered by someone other than the auto dealer or manufacturer. Rep. Patrick said the notice will need to be printed in a specified size font in order to make it more prominent and noticeable.
- Asked whether he knew how companies acquire names to which they send unsolicited offers of extended warranty contracts for automobiles, Rep. Patrick said there is conjecture that the companies are using state automobile registration lists, from which they can determine the make, model and year of the vehicles.
- Rep. Patrick said both the automobile dealers association and the auto retailers support this legislation, and the Attorney General has reviewed it and has found no problem with it.
- MOTION:** **Rep. Mathews** moved to **introduce RS 18566; motion carried on voice vote.**
- RS 18589:** **Rep. Durst** presented **RS 18589**, noting that **Rep. Rusche** is a co-sponsor on this legislation. Rep. Durst said this addresses what many perceive as an inequity and an indirect cost to taxpayers. The legislation will require public works contractors to demonstrate that they have offered all of their employees comprehensive health insurance. Rep. Durst said since public

works contractors are performing work on behalf of the state, it is their duty to provide such coverage.

Rep. Durst pointed out that employees of out-of-state public works contractors are often sent to the emergency room for treatment when they are injured while working in Idaho. The bill from such medical treatment is then often shifted to the taxpayers, if the contractor and employee subsequently leave town. An additional problem is that contractors who do offer health insurance are at a competitive disadvantage since they incur this added cost and have to include it in their bid amounts.

Asked about the requirement that public works contractors provide coverage that is equivalent to coverage offered by the State of Idaho to its employees, Rep. Durst said it is his intention that contractors would be allowed to offer coverage at the most affordable tier that the state offers, although this specific language does not appear in the proposed legislation. He reported that some contractors have said covering employees will not be cost-prohibitive and they already offer insurance to their employees. Rep. Durst said the insurance will be affordable because many of the employees are relatively young and healthy, and therefore less expensive to cover.

MOTION: **Rep. Crane** moved to **return RS 18589** to the sponsor.

Speaking in support of his motion, **Rep. Crane** first disclosed that he holds a public works contractor's license and occasionally performs public works jobs. He said this legislation will increase the cost of projects and will limit the number of contractors who want to bid on projects. **Rep. Henderson** spoke in support of the motion, saying he recently learned, through a complaint from a Moscow contractor, that certain entities like the University of Idaho do not have to conform to local zoning laws and do not have to honor public works contractor licensing regulations. Arguing against the motion, **Rep. Durst** pointed out that presently we are shifting the costs of medical treatment for uninsured employees onto the property taxpayers, which is not good public policy.

SUBSTITUTE MOTION: **Rep. Rusche** offered a **substitute motion**, to **introduce RS 18589**. Arguing in favor of his motion, Rep. Rusche said companies who do not carry health insurance on their employees either draw against the workers' compensation fund, sometimes for conditions that could be treated under health care, or they depend on health care institutions or the county. He said hospitals are justifiably concerned about treating people who can't pay and who are difficult to track because they are out of state. Rep. Rusche said the concern about which level of coverage is required could be valid; for purposes of this legislation the most widely benefit package was chosen.

VOTE ON SUBSTITUTE MOTION: **Chairman Black** called for a vote on the substitute motion, to **introduce RS 18589**. **Substitute motion failed on a voice vote.**

VOTE ON ORIGINAL MOTION: **Chairman Black** called for a vote on the original motion, to **return RS 18589** to its sponsor. A roll call vote was requested. **Motion passed, 11-3-3. Voting in favor of the motion:** Reps. Henderson, Collins, Bilbao, Chadderdon, Crane, Mathews, Bayer, Jarvis, Palmer, Thompson, and Chairman Black. **Voting in opposition to the motion:** **Reps. Rusche,**

Durst and Cronin. Reps. Patrick, Gibbs and Smith (30) were absent and excused.

RS 18684: **John Eaton**, representing the Idaho Association of Realtors, presented **RS 18684**. Mr. Eaton noted that this proposed legislation, and two others that he will present, resulted from a real estate task force that met during the summer. He said none of them changes anything with regard to how real estate is practiced in Idaho.

RS 18684 will add two parts to the code section dealing with the duties of a real estate agent and a broker to a client. Mr. Eaton said that when a buyer or seller enters into a written contract for representation in a real estate transaction, the broker and agent owe certain duties to the client. This legislation clarifies that a brokerage and its licensees may represent two or more buyers who wish to make an offer for purchase on the same real property, provided that the buyers are advised of this in writing. Mr. Eaton said this provision is similar to one in Montana, where agency laws are very similar to Idaho's.

The second provision of the legislation clarifies that the duties owed to clients do not result in imputed knowledge between licensees of the brokerage, when neither have reason to have such knowledge. Mr. Eaton said this provision is the result of a decision handed down in an Idaho Falls case, wherein a broker had two agents in his office, both working on a particular property. One client felt his agent did not handle a transaction properly and sued both agents and their broker. In this case, the judge ruled that the two brokers should have known about the possible conflict of interest since they both worked in the same office. Mr. Eaton said the contract that exists is with the broker, and this legislation will make clear that it is the broker's responsibility to know about possible conflicts.

MOTION: **Rep. Bilbao** moved to **introduce RS 18684; motion carried on voice vote.**

RS 18685: **Mr. Eaton** then presented **RS 18685**, which will clarify that parties involved in a real estate transaction may instruct a broker or a licensee to deposit moneys into a trust account with a third party, provided that the broker maintains a record of the transaction. He said checks are routinely deposited into such accounts, and the agent does not have control over the account, although he is supposed to have control over it as well as having access to account records. Mr. Eaton said the Real Estate Commission has reviewed this change and is supportive of it.

Jeremy Pisca, an attorney who serves as general counsel for the Idaho Association of Realtors, was recognized to respond to a question about earnest money. Mr. Pisca said earnest money is not necessarily required in a real estate transaction, but "consideration" is required; in other words, something must be offered, although it does not necessarily have to be money.

MOTION: **Rep. Thompson** moved to **introduce RS 18685**, with two corrections to the Statement of Purpose, namely: "paties" in line 1 should be "parties" and "paty" in line 2 should be "party." **Motion carried on voice vote.**

RS 18690: **Mr. Eaton** presented **RS 18690**, which deals with pre-sales of properties.

Mr. Eaton explained that under current law a brokerage representation agreement must contain a “legally enforceable” description of the property. However, in situations where a landowner hires a brokerage to handle land that is in development, the legal description of such property is often changing. The proposed legislation will provide that such agreements contain a general description of the land which sufficiently identifies the property and evidences the agreement between the real estate broker and the client. He said such a description is not a “metes and bounds” description.

Mr. Eaton cited a recent case in Boise in which an agent had an agreement to pre-sell condominium properties. After the agent had sold several of them, the client decided he did not want to pay the agent’s commission. In this case, a judge ruled that “legally enforceable” descriptions of those properties did not exist when the agreement was made.

This change will affect only brokerage agreements. Mr. Eaton said that a legal description will still be required before any property can be transferred in sale documents.

MOTION: **Rep. Thompson** moved to **introduce RS 18690; motion carried on voice vote.**

RS 18703: **Mr. Eaton** presented **RS 18703**. He said this legislation addresses a problem brought to his attention as a result of a new disclosure law passed last year. In compliance with the new law, the Realtors created a form which all of their members are currently using. The problem arises because the law requires that the form be printed on bright yellow paper, which is not practical given the number of transactions that are done electronically. He said no one realized the impact that this provision would have on the industry, in terms of extra copying time and expense. This legislation will remove the requirement of yellow paper for the disclosure form.

In response to committee questions, Mr. Eaton said the industry is willing to print the heading in larger type or use some other means to make it more prominent and therefore easily noticed. He said that although removing the yellow-paper requirement may sound like a benefit only to Realtors, it is actually a benefit to the consumer as well because it will save time in the transaction. Mr. Eaton said he will bring a proposed draft of the new form when this legislation is scheduled for a hearing before the committee.

MOTION: **Rep. Bayer** moved to **introduce RS 18703; motion carried on voice vote.**

RS 18718C1: **Rep. Phylis King** presented **RS 18718C1**. Rep. King said that during 2007, her freshman year in the Legislature, Governor Risch formed a housing advisory committee for manufactured housing and Rep. Mary Lou Shepherd asked her to attend the meetings in her place. The committee’s findings included the fact that owners of manufactured housing or mobile homes are vulnerable to park closures because the cost to relocate can range from \$5,000 to \$15,000. Sometimes another location cannot be found, and the homeowner may still have a mortgage on the home and therefore cannot abandon it.

Rep. King said there are also sometimes conflicts between tenants and

landlords, neither of whom may know their rights and responsibilities. She said one of the recommendations of the housing advisory committee was to rewrite the landlord/tenant act, which was originally written in 1993.

In developing RS 18718C1, Rep. King said she looked at the rules written in 1998 for float homes and incorporated some of their rules into this legislation, changing the term "marina" to "lot." She said she had worked with AARP, Catholic Charities of Idaho, the Idaho Women's Network, and the Idaho Manufactured Housing Association. She said she also consulted with Idaho Legal Aid, the Independent Living Council, and a number of other parties who will be interested in testifying on the legislation.

Rep. King stated there are 46,000 manufactured homes in Idaho, with 100,000 tenants. She said the legislation does not apply to those who rent their homes nor to those who own both their mobile home and their land, but only to people who own the mobile home but rent the lot on which it is located. She said she does not know how many of the 46,000 manufactured homes actually fall into this latter category. She said the majority of mobile home tenants are low income, some are disabled, and many are over 65. She said Idaho Legal Aid has offered to help distribute copies of this legislation to those affected.

Rep. King then explained certain key provisions of the legislation. She said the bill will require a two-year lease agreement and will allow for mediation and arbitration in cases of landlord-tenant disagreements. It requires "reasonable" late fees, with the provision that late fees shall not exceed 15%. Rep. King said the term "reasonable" is defined in common law as meaning that an unbiased person with reasonable intelligence would consider it reasonable. Other provisions require that a tenant be given a reasonable time to complete landscaping and that in the case of master meters in mobile home parks, the billing should be split evenly among lots.

Other provisions include: 1) Landlords shall not be unreasonable in permitting guests or visitors in mobile home parks; 2) Certain reasons for termination shall be allowed; 3) Termination notices shall be in writing and shall be mailed as specified in Idaho Code; and 4) Landlords shall provide an account each year to residents stating the amount of their security deposits being held. A further important provision is that if the landlord offers a park for sale, he will be required to notify the tenant association, if one exists, and he must consider an offer to purchase from the association.

Asked whether her legislation considered the park owners' rights, **Rep. King** said she held three meetings that included tenants, landlords, and the Idaho Manufactured Housing Association. She said RS 18718C1 includes a lot of language agreed upon during those meetings. She said, however, that the homeowners association still opposes the legislation because of certain provisions contained in it. She said she had not sought an Attorney General's opinion on the RS. Responding to further committee questions, Rep. King said she was not actually a member of the Governor's committee, although she went to all the meetings. She said the recommendations of that committee were included in a lengthy report to the Governor, which she could provide to the Business Committee.

In further committee discussion and questioning, concerns were raised about

the implications of this legislation for a park owner with regard to the return on his investment. The terms “unreasonable,” “unfair,” and “unconscionable” could pose a difficulty when a landlord tries to establish criteria to be used in arbitration or appeals. In response, Rep. King said the term “reasonable” is defined in common law, and the term “unfair” means someone is treated differently than someone else. In defining “unconscionable,” Rep. King gave an example of a landlord who might ban pets for a tenant after a long period during which the tenant already owned a pet; this is an action which she would consider unconscionable.

Asked about the 90-day period of time following an eviction notice for nonpayment of rent, Rep. King said a tenant could be notified on the 15th of the month if the rent due on the 1st of the month is not paid. Then the tenant would have 90 days to vacate the premises. She said the landlord may have already collected the first and last months’ rent, and may also have a deposit from the tenant; these amounts would help offset the 90 days of rent payments that would not be made by the tenant. However, in a worst-case scenario, Rep. King acknowledged that a landlord may simply lose the 90 days’ worth of rent. She also noted, though, that occasionally a landlord will evict a tenant and turn the property into a rental and the previous owner of the mobile home does not receive a refund of the deposit.

MOTION: **Rep. Bilbao** moved to return **RS 18718C1** to sponsor, awaiting an Attorney General’s opinion on the legalities of the RS.

Arguing against the motion, **Rep. Durst** said a landlord has recourse to small claims court in order to recover his unpaid rental income in the case of a tenant who defaults. He said although the legislation may have some problems, it does represent the beginning of a solution to a problem with landlord/tenant arrangements for residents of manufactured housing, which is an important segment of the housing market.

SUBSTITUTE MOTION: **Rep. Durst** offered a **substitute motion**, to **introduce RS 18718C1**.

Rep. Patrick expressed support for the original motion to seek an Attorney General’s opinion, noting that the legislation is complicated and there are some troubling provisions contained in it. **Rep. Cronin** argued in favor of the substitute motion, saying there are a number of unresolved issues that should be addressed at a public hearing on this bill. He said he also believes the Attorney General should study this legislation to determine whether it requires some technical corrections. **Rep. Chadderdon** argued against the substitute motion, saying that, in her experience, sometimes the general public thinks that a bill which has simply been introduced is already in effect, and they respond accordingly. Her concern is that if the bill is printed and then the Attorney General recommends changes to it, some parties who will be affected by those changes will never learn about them. Rather than run this risk, Rep. Chadderdon said she supports getting the AG’s opinion before introducing the RS as a bill.

VOTE ON SUBSTITUTE **Chairman Black** called for a vote on the substitute motion, to **introduce RS 18718C1; motion failed on voice vote.**

MOTION:

Chairman Black asked for clarification of the original motion. **Rep. Bilbao** stated the intent of his motion is to **HOLD RS 18718C1 to time certain**, and to request an Attorney General's opinion that will clarify some of the issues and language in the legislation.

VOTE ON ORIGINAL MOTION:

Chairman Black called for a vote on the original motion, to **HOLD RS 18718C1** awaiting an Attorney General's opinion. **Motion carried on voice vote.** **Rep. Durst** requested that he be recorded as voting against the motion.

RS 18730:

Elwood Kleaver, President of the Idaho Association of Health Plans, presented **RS 18730**, the Idaho Health Carrier External Review Act. Mr. Kleaver stated that the Department of Insurance and his association have collaborated on developing this legislation for the past four to six months. The basic provision of the legislation is that persons covered by health insurance plans will have a right to an outside independent review of an insurance company's decision to deny a claim on the grounds of medical necessity or investigational status. The cost of such a review would be borne by the health insurance plan. Mr. Kleaver said if an insured wants to exercise this option, he or she would contact the Department of Insurance, and the Department will randomly select an approved independent review organization. The legislation provides time lines for such review; in the case of an urgent medical need, the case would be expedited. The decision rendered by the review organization will be binding on both the insured and the insurance company; if the individual is covered under a plan that affords additional coverage, however, he or she is entitled to that.

Responding to committee questions, Mr. Kleaver said "qualified review organizations" are organizations specifically designed to review medical matters and render opinions on the appropriateness of treatments. He said health insurance companies already use these companies to review cases when an insured asks for a review of a denied claim. He said they are selected and approved by the Department of Insurance.

Mr. Kleaver said similar legislation is being introduced in other states, based on guidelines from the National Association of Insurance Commissioners. He said his organization worked within those guidelines, with the cooperation of the Department of Insurance, in order to develop this legislation. He said this will give an individual the right to request an independent review, but only in the case of medical necessity or investigational procedures.

MOTION:

Rep. Collins moved to introduce **RS 18730**; **motion carried on voice vote.**

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:05 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** February 23, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** Rep. Bayer
- GUESTS:** Paul Jackson, Farmers Insurance Company; Jim Trent, State Farm Insurance; Roger Hales, Idaho Bureau of Occupational Licensing; Suzanne Budge, SBS Associates
- Chairman Black called the meeting to order at 1:30 p.m.
- MOTION:** **Rep. Cronin** moved to approve the minutes of February 17 as written; **motion carried on voice vote.**
- H 88:** **Roger Hales**, representing the Bureau of Occupational Licensing, presented **H 88**, which will allow the Board of Morticians some flexibility in considering extenuating circumstances when a resident trainee exceeds the two-year limit to complete an internship.
- MOTION:** **Rep. Rusche** moved to send **H 88** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Cronin** will sponsor the bill on the floor.
- H 89:** **Mr. Hales** presented **H 89**, on behalf of the Board of Barber Licensing. This bill will provide an exemption to the barber licensing requirements for correctional facilities that provide barber services to inmates. He noted there is a provision to allow for barbering in a non-licensed facility, but current law still requires a licensed barber to perform the services. This legislation will provide a general exemption for inmates so they will not be required to be licensed barbers in order to provide haircuts.
- Responding to committee questions, Mr. Hales said it will be left entirely to the penitentiary system to determine what qualifications will be required of inmates who provide hair cutting services. He said an inmate who has provided such services while incarcerated would typically not be able to apply that experience in satisfaction of the apprenticeship requirements for licensing, since the apprenticeship needs to be performed under the supervision of a licensed barber. Similarly, Mr. Hales said ex-military personnel who want to become licensed barbers in Idaho would have to meet the education and examination requirements as set forth in the barber rules, although the board may exercise some discretion in this matter.
- MOTION:** **Rep. Thompson** moved to send **H 89** to the floor with a **DO PASS**

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

H 90: **Mr. Hales** presented **H 90**, on behalf of the State Board of Liquefied Petroleum Gas Safety. He pointed out that the legislation establishes a separate cap for a facilities license, and explained that the board recognized the public safety factor and the increased time involved in inspecting these large storage facilities. He said these facilities, often owned by major corporations, are capable of carrying a larger share of the fees collected. The board operates on dedicated funds collected through these fees. Mr. Hales also noted that the bill does not actually raise the fees, but allows the board to come back with a fee increase request at some point in the future.

Responding to committee questions, Mr. Hales said the current fee amount is set at \$50 for either an individual or a facility; in the case of large facilities that store in excess of 10,000 gallons, the fee is \$200. He said this bill will establish a separate, higher cap of \$500 for large storage facilities, and he expects the board to request an increase in their fees in the future, although he cannot project with any certainty when that might take place. Mr. Hales reported that this board is currently running a \$100,000 deficit after their first three years of operation; in that time, they have had to inspect every storage facility in the state of Idaho. A fee increase will be necessary, therefore, to allow the board to achieve adequate funding levels.

Asked about the language on page 2 referring to the non-refundable nature of application fees, Mr. Hales said this is standard language and standard practice when application or renewal fees are collected. This language simply establishes that practice for the liquefied petroleum gas board.

Mr. Hales also said it is possible that, if the cap of \$500 is established as the fee, a large facility could be required to pay both a \$500 application fee and a \$500 license fee in their initial year of licensing. Mr. Hales said the industry is supportive of this bill, and he knows of no opposition to it.

MOTION: **Rep. Bilbao** moved to send **H 90** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Reps. Crane, Mathews and Thompson** requested that they be recorded as voting in opposition to the motion. **Rep. Gibbs** will sponsor the bill on the floor.

H 91: **Mr. Hales** presented **H 91**, on behalf of the Board of Geology. The primary intent of this bill is to open up the geology board to a greater number of participants by changing the qualifications for board membership from 12 years of experience to seven years of experience. It also gives the board authority to enter into mutual aid agreements, interstate compacts and other contracts. It clarifies that the board's subpoena power will relate solely to disciplinary matters, and it provides authority to apply for injunctive relief to stop violations of its act. The bill adds language about using the Idaho Rules of Administrative Procedure, provides wider flexibility in revoking or suspending geology licenses, gives the board the power to fine an individual up to \$1000 per violation, and makes other technical corrections. Mr. Hales said the legislation had been reviewed by the engineers association and they are supportive.

Andy Moore, representing the engineers association, was recognized to answer a question about the standards in other states for board membership. Mr. Moore said he is not sure of the standards used in other states, but the intent of this legislation is to open up board positions to anyone qualified to take the professional engineering examination. Mr. Moore said there are 559 registered geologists in the state of Idaho.

Responding to further committee questions, **Mr. Hales** said the administrative fines included in H 91 are standard disciplinary tools for all licensure boards. He said licensees would rather pay a fine than have their licenses suspended or revoked, in the case of violations. This gives the board the option of fining rather than suspending. Asked whether the board has the authority to impose fines without judicial action, Mr. Hales said licensing boards clearly have statutory authority to fine licensees but do not have any authority over unlicensed persons.

MOTION: **Rep. Gibbs** moved to send **H 91** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Jarvis** will sponsor the bill on the floor.

H 92: **Mr. Hales** presented **H 92**, on behalf of the Board of Architects. Mr. Hales said this bill will clarify that once a candidate has graduated and begun an internship, he or she can start the examination process to become a licensed architect.

In response to committee questions, Mr. Hales said a person working under the supervision of a licensed architect and assisting in an architecture practice is serving an “unofficial” internship. In Idaho, if a person gains eight years of experience in this manner, and the board determines that this is equivalent to a degree, the person is allowed to take the architecture exam. Mr. Hales said immigrants to this country would need to establish that they have a degree equivalent to a U.S. degree, and would probably still have to serve an internship and pass the examination in order to be licensed. Mr. Hales said this legislation actually provides greater flexibility for the board but does not heighten the qualification requirements.

MOTION: **Rep. Thompson** moved to send **H 92** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Thompson** will sponsor the bill on the floor.

H 109: **Mr. Hales** presented **H 109**, on behalf of the Board of Contractors. He explained the three changes included in this bill. First, it makes a technical correction to the name of the insurance policy that contractors are required to carry. Second, it allows certain insurance information to be available in certain specified circumstances. Third, it adds the surrender of a license or registration in this or any other state as a consideration for issuing a registration or renewal. Mr. Hales said the insurance language was generated and reviewed by industry representatives and they are comfortable with it.

MOTION: **Rep. Collins** moved to send **H 109** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Collins** will sponsor the bill on the floor.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: February 25, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Rep. Patrick

GUESTS: Donald Roberson, Department of Insurance; Marsha Moers, Department of Insurance; Elwood Kleaver, Primary Health; Stephen Thomas, Idaho Association of Health Plans; Mark Bathrick, Idaho Association of Commerce & Industry (IACI); Jayson Ronk, IACI; Woody Richards, Blue Cross of Idaho; Joie McGarvin, American Health Insurance Providers (AHIP); Cole Pepper, Connolly & Smyser; Erin Armstrong, Risch Pisca; Mike Kane, Property Casualty Insurers Association of America (PCI); Bill Deal, Department of Insurance; Shad Priest, Department of Insurance; Julie Taylor, Blue Cross

Chairman Black called the meeting to order at 1:30 p.m.

MOTION: **Rep. Cronin** moved to approve the minutes of February 19 as written; **motion carried on voice vote.**

MOTION: **Rep. Bilbao** moved to approve the minutes of February 23 as written; **motion carried on voice vote.**

H 108: **Rep. Rusche** presented **H 108**, a bill that would allow dependents under the age of 25 to remain on their parents' health insurance policies. Rep. Rusche said this bill expands previous legislation and builds on the efforts of Senator Cameron and others over the last few years. Previously the law required that those under 25 had to be full-time students in order to qualify for coverage under their parents' health coverage. This bill will remove the student requirement.

Rep. Rusche noted that there are ten sections of Code that will be amended by this legislation, since the requirement needs to be removed in all these pertinent sections. He said the bill provides a definition of "financially dependent" as one who receives more than half of his or her financial support from parents. He pointed out that many students are still living at home but are only part-time students. Other young people who are not students may have been independent at one time but now find themselves dependent because of job losses. He noted that bringing in greater numbers of relatively young and healthy persons may be beneficial to the insurance pools because it spreads the risk.

Rep. Rusche said the bill had been presented to the health care task force

and to the Idaho Association of Health Plans, and has been reviewed by both Blue Cross and Blue Shield. He said existing contracts are not affected; the new requirement will become effective only as contracts renew.

MOTION: **Rep. Mathews** moved to send **H 108** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Rusche will sponsor the bill on the floor.**

H 192: **Elwood Kleaver**, President of the Idaho Association of Health Plans, presented **H 192**. Mr. Kleaver stated that the Department of Insurance and his association have collaborated on developing this legislation for the past four to six months. The basic provision of the legislation is that persons covered by health insurance plans will have a right to an outside independent review of an insurance company's decision to deny a claim on the grounds of medical necessity or investigational treatment. The cost of such a review would be borne by the health insurance plan.

Mr. Kleaver noted that medical treatments are becoming increasingly complex, and insurance companies cannot be expected to maintain a sufficient level of expertise regarding all of them. Using specialists to review claims lends transparency and objectivity to the review process and instills confidence. He said medical review organizations use board-certified physicians, dentists and health professionals who provide advice on such things as Medicare and Medicaid and also develop clinical guidelines.

Mr. Kleaver said if an insured wants to exercise the option of an independent review, he or she would contact the Department of Insurance, and the Department will randomly select an approved independent review organization. The legislation provides time lines for such review; in the case of an urgent medical need, the case would be expedited. The decision rendered by the review organization will be binding on both the insured and the insurance company; if the individual is covered under a plan that affords additional coverage, however, he or she is entitled to that.

Currently any information acquired through an independent review process is non-binding and is private to the health plan requesting it. Mr. Kleaver said that under the provisions of this bill, a covered member will have the right to request an independent review, after first exhausting all administrative procedures governing the health plan. Mr. Kleaver said the Department of Insurance is responsible for establishing minimum qualifications for review organizations.

Rep. Rusche reported that this same type of review process was initially opposed by the health plans in Washington and Oregon, but now they have embraced it. He said reviewers are better able to stay informed about current medical procedures and treatments, thus relieving the health care companies of the burden of deciding whether a treatment is appropriate.

Responding to committee questions, Mr. Kleaver said in his experience, independent review organizations tend to find in favor of insurance companies in approximately 70% of the cases they review. He said he cannot recall a case that went to litigation as a result of a review organization's findings.

MOTION: **Rep. Thompson** moved to send **H 192** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Mathews will sponsor the bill on the floor.**

H 41: **Bill Deal**, Director of the Department of Insurance, was recognized to present **H 41**. Before his presentation, Mr. Deal asked that he be recorded as being in support of H 108, the previous bill considered by the committee, which provides for an independent review process for health insurance claims. He said the Department had worked in cooperation with the health insurance industry to arrive at good legislation to address this matter.

Mr. Deal then presented **H 41**, a bill that will enable the Department to regulate group supplemental health plans. Mr. Deal explained that in current Code the Department can regulate individual supplemental health policies sold in Idaho, but not policies that are gathered together or "stacked" and sold as a group policy, as a replacement for major medical plans. Supplemental health policies include such things as hospital confinement policies, doctor policies, or even cancer insurance; these policies have limited benefits and multiple deductibles. Mr. Deal said if the Department has the ability to regulate both individual and group policies of this type, it will create a level playing field for marketing these products and will make regulation more consistent.

Responding to committee questions, Mr. Deal said often such supplemental policies are made available to members of large organizations such as the American Legion or the National Rifle Association. He said the companies who market these plans are subject to the same oversight and same requirements as any other insurance companies.

MOTION: **Rep. Jarvis** moved to send **H 41** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Thompson will sponsor the bill on the floor.**

H 42: **Mr. Deal** presented **H 42**, a bill that deals with the Department's fraud investigation division. Mr. Deal explained that his department's investigators sometimes accompany and assist law enforcement personnel in obtaining and executing search warrants in cases involving insurance-related crimes. The difficulty arises because the Department's investigators are not allowed to actually enter the premises being searched and have to depend upon law enforcement officials to gather evidence. Because of this, the law enforcement personnel sometimes do not gather all the necessary evidentiary items. This proposed legislation will expand the ability of the Department's investigators to assist law enforcement personnel as they make a search. Mr. Deal stipulated that the bill will not allow the Department to seek a search warrant since warrants must be secured through a recognized law enforcement agency.

Don Roberson, Chief Investigator from the Department of Insurance, was recognized to explain the investigation division's procedures when a search warrant is necessary to help prosecute fraud cases. He explained that his investigators accompany law enforcement personnel when they seek a warrant, provide information on probable cause, and answer any other questions that may arise. He said the department is seeking the ability to

assist in the actual searches and to enter the premises in order to more efficiently determine which materials need to be taken.

In response to a question about whether this will place unarmed investigators in dangerous situations, Mr. Roberson pointed out that his division investigates only insurance fraud cases, basically white-collar crimes, which means they are usually searching insurance agency offices. He said the Department's investigators are primarily ex-law enforcement personnel who have had previous training that enables them to deal with highly charged situations, should they encounter them. Asked about the attitude of law enforcement officials toward this legislation, Mr. Roberson said he has talked with the Peace Officers Standards and Training (POST) Council and they are comfortable with it.

In further committee discussion, Mr. Roberson explained that normal procedures include conducting interviews prior to any search; such interviews may take place at the sheriff's office or a public place. At the beginning of the search, there are usually three or four law enforcement officers whose job is to secure the premises. This reduces the possibility of any altercation or other violent episodes. Mr. Roberson said that in 14 years he has never had a search situation devolve into a physical altercation.

Michael Kane, representing Property & Casualty Insurance Company of America (PCI), was asked to testify on **H 42**. Mr. Kane said PCI strongly supports this legislation in order to help the department vigorously investigate cases of insurance fraud. Mr. Kane informed the committee that he previously worked for the prosecutor's office for 15 years and for the Attorney General for six years. He currently also represents the Idaho Sheriff's Association, and he stated that they do support this legislation.

Mr. Kane stated it is not unusual for law enforcement to call upon the assistance of civilians in executing search warrants, whether they be probation officers, parole officers, or personnel of state or federal agencies. He said only law enforcement agencies can actually secure a search warrant, but those agencies rely heavily on others to provide the probable cause as well as the specific location where certain evidence can be found.

Mr. Kane said several officers go to the scene of a search and set up perimeter control. One officer is required to announce his presence and read the search warrant to the individual who is the subject of the investigation. As this is being done, other officers, who are all wearing protective gear, move from room to room to secure the premises. Only after the scene is controlled, the Insurance Department investigators will accompany law enforcement in the search, since detectives do not have sufficient knowledge of the kinds of materials that are being sought.

Asked to give some specific examples of situations where civilians accompany law enforcement in executing searches, Mr. Kane mentioned parole violations, Medicare fraud investigations, and child protection cases.

MOTION:

Rep. Rusche moved to send **H 42** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Reps. Bayer, Jarvis and Palmer voted in opposition. Rep. Cronin will sponsor the bill on the floor.**

H 75: **Mr. Deal** presented **H 75**. He first introduced **Marsha Moers**, Bureau of Consumer Protection, **Shad Priest**, Deputy Director, and **Tom Donovan**, lead attorney for the Department. He said all interested parties are in agreement with the provisions of this bill. Mr. Deal said H 75 is modeled after the National Association of Insurance Commissioners and the National Council of Insurance Legislators model legislation. He noted that the Department had chosen not to include anti-fraud statutes in the bill, since there are other sections of Idaho Code that cover insurance fraud.

Mr. Deal then provided a brief explanation of the legislation, pointing out that it adds an entirely new section to Idaho Code and therefore contains many definitions. Included in the legislation are definitions of such terms as "life settlement," "financing entity," "life settlement broker," "life settlement provider" and "owner." In terms of consumer protection, the legislation includes licensing, examination and recordkeeping requirements for brokers and providers, and it requires that disclosure statements be filed with the Department of Insurance. It also includes reporting information, privacy protections, a limitation on when policies can be transferred, and other disclosures. The legislation also includes a definition of "Stranger-Originated Life Insurance" commonly known as STOLI.

Mr. Deal said this bill will allow the Department to regulate an unregulated product that is being sold. He said the legislation does not outlaw life settlements but provides proper disclosure to participants of life settlement arrangements.

MOTION: **Rep. Durst** moved to send **H 75** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Collins will sponsor the bill on the floor**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:50 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** March 3, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** None
- GUESTS:** Scott Stingley, Idaho Mortgage Brokers; Steve Cox, Idaho Mortgage Brokers; Val Brooks, Idaho Credit Union League; Rep. Bill Killen; Mark Workland, NAPA Auto Parts; Jeanne Jackson-Heim, Idaho Real Estate Commission; Gavin Gee, Idaho Department of Finance; Mandy Ward, Idaho Real Estate Commission; Jeremy Pisca, Idaho Association of Realtors (IAR); John Eaton, IAR; Dawn Justice, Idaho Bankers Association; Benjamin Davenport, Risch Pisca; Rep. George Eskridge;
- Vice Chairman Henderson called the meeting to order at 1:30 p.m.
- MOTION:** **Rep. Bilbao** moved to return **RS 18718C1** to its sponsor, Rep. Phylis King. By way of explanation, Rep. Bilbao said Rep. King had informed him that she plans to work on this issue over the interim and did not intend to proceed with the legislation this year. **Motion carried on voice vote.**
- MOTION:** **Rep Cronin** moved to approve the minutes of February 25 as written; **motion carried on voice vote.**
- H 170:** **Rep. Eskridge** presented **H 170**, which strives to correct an inequity between the \$10 core charge imposed by distributors and the \$5 that retailers charge consumers. This bill will make those charges equal.
- Responding to a committee question, Rep. Eskridge said other states do not have a statute in place that specifies the core fee. He said the problem with the inequality in the core fee was brought to his attention by a NAPA Auto Parts dealer in Boise.
- MOTION:** **Rep. Gibbs** moved to send **H 170** to the floor with a **DO PASS** recommendation.
- In further discussion, **Rep. Eskridge** said he thinks the \$5 charge was written into Idaho Code in an attempt to provide an adequate incentive for battery recycling while at the same time placing a limit on the fee.
- VOTE ON
MOTION:** **Vice Chairman Henderson** called for a vote on the motion to send **H 170** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Eskridge** will sponsor the bill on the floor.

H 169:

Gavin Gee, Director of the Department of Finance, presented **H 169**, the Residential Mortgage Practices Act. Mr. Gee testified that the federal government, as part of the Housing and Economic Recovery Act of 2008, passed the Safe and Fair Enforcement Mortgage Licensing Act (the S.A.F.E. Act), which mandates licensing of all mortgage loan originators. The S.A.F.E. Act requires states to implement a licensing system that will meet federal minimum standards. The U.S. Department of Housing and Urban Development (HUD) will assess whether states have met the federal mandate. H 169 repeals Idaho's existing law and replaces it with a new Idaho Residential Mortgage Practices Act, which retains existing regulatory oversight language and incorporates the requirements of the S.A.F.E. Act.

Mr. Gee explained H 169, saying that Part 1 includes provisions of general applicability to the entire act and Part 2 includes provisions applicable to mortgage brokers and mortgage lenders operating in Idaho. Part 3, entitled the Idaho S.A.F.E. Mortgage Licensing Act of 2009, implements the requirements of the federal S.A.F.E. Act. Mr. Gee stated that the bill also establishes a state mortgage recovery fund in place of a surety bond requirement for mortgage brokers, mortgage lenders, and mortgage loan originators. Mr. Gee said his department had worked closely with the mortgage loan industry. He noted that the Idaho Mortgage Brokers and the Idaho Mortgage Lenders support H 169.

Responding to questions from the committee, Mr. Gee said the bill is revenue-neutral, although if the Department experiences a large influx of brokers and lenders who want to be licensed, revenues will increase accordingly. He said Idaho and most other states are basing their legislation on the national model act, which has been approved by HUD.

Mr. Gee explained that the proposed state mortgage recovery fund will be funded by fees imposed upon mortgage lenders and brokers; these fees will not exceed the cost of the previously-required surety bond. The fund will be capped at \$1.5 million, a level that should be reached in three to four years, at which point the Department is authorized to adjust the fees. Mr. Gee said an aggrieved party will be required to get a judgment indicating that a person subject to licensing has violated the law. The Department of Finance then authorizes payment to the injured party from the mortgage recovery fund. Mr. Gee said the Department does not anticipate many claims; in fact, he cannot recall the last time a claim was filed. He said if the number of claims does exceed the balance of the fund, the Department could request a special assessment or potentially delay payment of a claim.

In answer to further committee questions, Mr. Gee said if Idaho does not enact this legislation, the authority to set up a licensing and regulatory system will revert to HUD. The net effect would be a huge regulatory burden, since both the HUD regulations and Idaho law would apply to loan originators. Licensees would then be subject to a dual licensing system and dual oversight. Mr. Gee said loan originators will still need to carry errors and omissions insurance. He also said so-called "mortgage rescue" operations would be covered under this legislation if they help with financing or re-financing of mortgages and charges a fee for the service.

Asked how the legislation will help weed out unscrupulous loan originators who use fraudulent or deceptive lending practices, Mr. Gee said the new law has very strict licensing standards and includes requirements for pre-license

testing, educational requirements, and criminal background checks. The licensing requirements bar anyone convicted of a felony within the last seven years, anyone ever convicted of fraud, or anyone who has had a license revoked in another state. Mr. Gee said the recently-instituted nationwide licensing system created a database containing information on every loan originator in the country. With improved cooperation and coordination among state and federal regulators, the “bad actors” will be less able to move from state to state.

MOTION: **Rep. Collins** moved to send **H 169** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Patrick** will sponsor the bill on the floor.

H 188: **John Eaton**, Idaho Association of Realtors, presented **H 188**. Mr. Eaton noted that this proposed legislation, and two others that he will present, resulted from a real estate task force that met during the summer. H 188 will add two parts to the Idaho Code section that deals with duties of real estate agents and brokers to their clients. Mr. Eaton said when a buyer or seller enters into a written contract for representation in a real estate transaction, the broker and agent owe certain duties to the client. This legislation clarifies that a brokerage and its licensees may represent two or more buyers who wish to make an offer on the same real property, provided the buyers are advised of this in writing. Mr. Eaton said this provision is similar to one in Montana, where agency laws are very similar to Idaho’s.

The second provision of the legislation clarifies that the duties owed to clients do not result in imputed knowledge between licensees of the brokerage, when neither have reason to have such knowledge. Mr. Eaton said this provision is the result of a decision handed down in an Idaho Falls case, wherein a broker had two agents in his office, both working on a particular property. One client felt his agent did not handle a transaction properly and sued both of the agents as well as their broker. In this case, the judge ruled that the two agents should have known about the possible conflict of interest since they both worked in the same office. Mr. Eaton said the contract that exists is with the broker, and this legislation will clarify that it is only the broker’s responsibility to know about possible conflicts.

MOTION: **Rep. Bayer** moved to send **H 188** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Bayer** will sponsor the bill on the floor.

H 189: **Mr. Eaton** presented **H 189**, developed in response to a concern brought by the Idaho Real Estate Commission with regard to trust accounts and entrusted property. The bill clarifies that parties involved in a real estate transaction may instruct a broker or a licensee to deposit moneys into a trust account with a third party, provided that the broker maintains a record of the transaction. He said checks are routinely deposited into such accounts, but the agent does not have control over or access to the account, which is required.

Jeanne Jackson-Heim, Idaho Real Estate Commission, was recognized to respond to a question regarding the interest earned in trust accounts. Ms. Heim stated that normally real estate trust accounts are not interest-bearing. However, there is a provision in Idaho law that allows interest-bearing trust accounts to be established in special circumstances. If such an account

does earn interest, Ms. Heim said the interest accrues to the person whose funds were deposited.

MOTION: **Rep. Thompson** moved to send **H 189** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Bayer** will sponsor the bill on the floor.

H 190: **Mr. Eaton** then presented **H 190**, which deals with pre-sales of properties. This legislation is brought in response to a Boise case in which an agent had an agreement to pre-sell condominium properties. After the agent had sold several of them, the client decided he did not want to pay the agent's commission, which totaled nearly \$200,000. In this case, a judge ruled that "legally enforceable" descriptions of those properties did not exist when the agreement was made and therefore the agreement was not enforceable.

Mr. Eaton explained that under current law a brokerage representation agreement must contain a "legally enforceable" description of the property. However, in situations where a landowner hires a brokerage to handle land in development, the legal description of such property is often changing. The proposed legislation will provide that such agreements contain a general description of the land which sufficiently identifies the property and evidences the agreement between the real estate broker and the client. He said such a description is not a "metes and bounds" description.

Mr. Eaton further testified that this change will affect only brokerage agreements, which are contracts for service between an agent and a seller of property. A legal description will still be required before any property can be transferred in sale documents.

MOTION: **Rep. Rusche** moved to send **H 190** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Crane** will sponsor the bill on the floor.

H 191 **Mr. Eaton** presented **H 191**, saying this legislation addresses a problem brought to his attention as a result of a new disclosure law passed last year. Mr. Eaton said his organization supports last year's legislation, which was aimed at reducing the number of "equity strippers" operating in Idaho. These entities prey on homeowners in foreclosure, offering to lease the home back to them, with a promise of returning the title to the homeowner in the future. However, in many cases the equity stripper is able to find a violation of the lease agreement and thus acquire the title.

In compliance with the new law, the Idaho Association of Realtors created a form which all of their members are currently using. Mr. Eaton distributed a copy of the new form to committee members, and noted that equity strippers generally do not use licensed agents for their transactions and therefore will not use this disclosure form. In such a case, their contract with the homeowner will not be valid because they will not be in compliance with the new law. Therefore, homeowners will be able to get their property back.

He said a problem has arisen, however, because of the requirement that the form be printed on bright yellow paper, which is not practical given the number of transactions that are done electronically. He said no one realized the impact that this provision would have on the industry, in terms of extra copying time and expense. This legislation will remove the requirement of

yellow paper for the disclosure form. Mr. Eaton also noted that the Idaho Real Estate Commission, which is in charge of enforcement of real estate regulations, did sign off on the legislation.

In response to committee questions, Mr. Eaton said the Association produces 26 separate forms, all of which are important in real estate transactions. Until now, none of them has been on colored paper. One of Mr. Eaton's concerns is that this new requirement will pave the way for other forms to be printed on different colors of paper as well. He said parties to a real estate transaction are presented with Form RE-42, the disclosure notice, in three different sets of forms that require their signatures, which should provide sufficient notice without being printed on yellow paper.

Responding to additional questions, Mr. Eaton said it is common practice in the industry to print and file all forms in a real estate transaction that is completed electronically. He said the yellow-paper requirement is cumbersome because of the additional time and expense needed to comply. Mr. Eaton said the industry is willing to print the heading in larger type or use some other means to make it more prominent and therefore easily noticed. This decision can be made without legislation, when the Association's forms committee meets in July. He said the factor to keep in mind is that unscrupulous equity strippers won't use these forms anyway, so properties will be able to be recovered by the homeowners.

Rep. Bill Killen testified in opposition to **H 191**, saying last year's legislation, **S 1431**, was not considered by the Business Committee but by the Judiciary, Rules and Administration Committee. He said the yellow-paper requirement was agreed upon last year by the sponsors of the bill, the Attorney General's office, and the mortgage lenders. Last year's legislation included exclusions for such entities as banks, savings and loan institutions, credit unions, and trust companies, all of which are already regulated.

Rep. Killen pointed out that **H 191** speaks to two different kinds of transactions during a foreclosure procedure and said that the Realtors could solve their problem by addressing only the portion of the bill that relates to sales. He suggested that larger font sizes could be used to draw attention to the disclosure, as long as the form would still fit on one page. It is his feeling, however, that yellow paper is not an undue burden.

Jeremy Pisca, general counsel for the Idaho Association of Realtors, responded to a question about whether the Real Estate Commission would promulgate a rule to increase the required font size. He said a regulatory body does not produce forms and such a rule would not be necessary in any case because the Association can choose font sizes without legislative direction.

Jeanne Jackson-Heim confirmed that the Commission has no authority to promulgate rules.

MOTION:

Rep. Crane moved to send **H 191** to the floor with a **DO PASS** recommendation. Speaking in support of his motion, Rep. Crane said he believes this will eliminate an unnecessary burden that is being imposed when real estate transactions are completed electronically.

Speaking in opposition to the motion, **Rep. Durst** said the legislation will be

a disservice to consumers in the name of greater convenience for real estate agents. Rep. Durst will oppose the bill on the House floor.

SUBSTITUTE MOTION:

Rep. Durst offered a **substitute motion** to send **H 191** to **General Orders** with an amendment that would reinsert the eliminated language on page 1, lines 31-32. He said this will still require a notice of foreclosure to be printed on yellow paper, while allowing contract notifications to be printed on white.

In support of the original motion, **Rep. Bayer** said, considering the fact that there are 26 forms used in transactions, he does not see the benefit of requiring a different color for one of them. He said the color of the disclosure form does not address the real concern, which is unscrupulous operators in the real estate industry.

Responding to a question from the committee, **Mr. Pisca** said the majority of real estate transactions that do not make use of the Association's forms are probably "For Sale By Owner" transactions. In those cases, the sellers are responsible to secure their own forms, and he said prepaid legal forms are readily available for purchase.

Rep. Patrick spoke in support of the original motion, saying buyers in a real estate transaction ought to be responsible for reading all forms, including the disclosure form. He does not see the value of requiring yellow paper.

Rep. Mathews spoke in support of the original motion, saying the issue is not paper color but rather customer service, adequate explanations, and the competency of both parties to the real estate transaction.

VOTE ON SUBSTITUTE MOTION:

Chairman Black called for a vote on the substitute motion, to send **H 191** to **General Orders** with committee amendments attached; **motion failed on voice vote.**

VOTE ON ORIGINAL MOTION:

Chairman Black called for a vote on the original motion, to send **H 191** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Durst** requested that he be recorded as voting against the motion. **Rep. Bayer will sponsor the bill on the floor.**

ADJOURN:

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 5, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Rep. Gibbs

GUESTS: Phil Barber, American Insurance Association; Wayne Hanners, Modular Building Board; Bob Corbell, Idaho Mechanical Contractors Association; Paul Jackson, Farmers Insurance; John Mackey, United Heritage Financial; Rex Green, Independent Auto Dealers Association; Steve Keys, Division of Building Safety; Carl Lohrengel, Division of Building Safety; Trent Wright, Idaho Automobile Dealers Association; Tom K. Brown, Idaho Electrical Board

Vice Chairman Henderson called the meeting to order at 1:35 p.m.

H 187: **Rep. Patrick** presented **H 187**, a bill designed to protect consumers from deceptive advertising in the sale of motor vehicle service contracts. He said this bill adds a new section of Code that requires specific language to appear on mailers that offer extended warranty service contracts. Rep. Patrick showed examples of some of these offers that have been mailed, noting that often they are worded in a way that alarms the automobile owners about their warranties. He considers these notices to be predatory advertising on the part of these companies. He said H 187 provides for the required notice to be printed in a specified font size in order to make it more prominent and noticeable.

Phil Barber, representing the American Insurance Association, and testifying on behalf of Mike Kane and Property Casualty Insurers, stated that their clients do not have a problem with the intent of **H 187** but they do think there is an internal inconsistency in the bill that allows for some ambiguity. Mr. Barber said legitimate companies who offer service contracts think they may be jeopardized by the possible ambiguity. Mr. Barber said the legislation as currently proposed would affect independent auto dealers the most.

Mr. Barber requested that the committee send H 187 to General Orders with the following amendment: on line 19, strike "the" and insert "a", and delete "of your vehicle." Mr. Barber said this new language will still address the problem of fraudulent, fly-by-night operators. He also said it is his opinion that there is still time left in the session to move this bill through General Orders, and he pledged that he and other industry representatives will work to support the amended bill.

Trent Wright, Executive Director of the Idaho Automobile Dealers Association, testified **in support** of **H 187**. He said the auto dealers have been concerned about this issue for years, and it is the dealers who suffer the most because of the unscrupulous businesses who offer these contracts. Mr. Wright said the alarming language contained in the contract offers serves to confuse consumers.

Mr. Wright testified **in opposition** to the proposed **amendment to H 187**, saying that it would make the bill weaker by possibly creating doubt in consumers' minds. He noted that most dealers do not offer just one brand of extended warranty, but instead offer up to a half-dozen or more. This variety allows the dealers to tailor a service contract to the various needs of specific customers. Mr. Wright said if H 187 is passed, his organization will work to further increase consumer protection and end predatory practices.

Rep. Patrick was recognized to close debate on H 187. He stated he does not think the proposed amendment to change the language in H 187 is necessary or helpful. He said if companies other than manufacturers or dealers want to solicit business for extended service contracts, they should simply be honest and transparent about who is offering the contract. He urged the committee to send the bill to the floor.

MOTION: **Rep. Crane** moved to send **H 187** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Patrick** will sponsor the bill on the floor.

H 159: **John Mackey**, United Heritage Financial Services, presented **H 159**, which will expand the availability of economical group life insurance coverage beyond the traditional groups currently defined in Idaho Code. Mr. Mackey said the bill will add language from the National Association of Insurance Commissioners that will authorize the Director of the Department of Insurance to determine the eligibility of non-traditional groups. He said traditional groups include employee groups, labor union groups, debtor groups, public employee groups, and credit union member groups. This legislation will expand eligible groups to include church member groups, student groups, bank account holder groups, and community volunteers such as emergency first responders. Mr. Mackey said 23 other states have already adopted legislation similar to H 159. He said the Department of Insurance is aware of the legislation, and he knows of no opposition.

Responding to committee questions, Mr. Mackey said these group life insurance policies are typically underwritten by large life insurance companies. Asked whether this bill would open the door to any group, Mr. Mackey said the Director of the Department would determine whether a particular group satisfies the requirements to be recognized.

MOTION: **Rep. Jarvis** moved to send **H 159** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Thompson** will sponsor the bill on the floor.

H 110, H 111, H 112: **Steve Keys**, Deputy Administrator of the Division of Building Safety, appeared before the committee to present **H 110**, **H 111**, and **H 112**, three bills that address apprenticeship registration intervals in the Plumbing Bureau, the Electrical Bureau, and the HVAC Bureau, respectively. **H 110**

establishes a five-year registration interval for plumbing apprentices and a three-year interval for specialty plumbing apprentices. Mr. Keys said the five-year time period is adequate for most apprentices to complete their required training. He explained that the current annual registration fee of \$5 is being replaced by a five-year registration fee of \$50 for apprentices and a three-year registration fee for specialty apprentices. Mr. Keys reported that the cost to the Bureau for issuing a license is approximately \$20-\$25. He said H 110 is widely endorsed by the plumbing industry.

Responding to a question about what happens to an apprentice who may be in his last year of a five-year period, Mr. Keys said such an apprentice would still be required to pay the new \$50 fee for a five-year registration. He said the plumbing industry considered pro-rating this fee but decided against it.

Mr. Keys then presented additional information about **H 111**, saying that this bill sets up the same five-year registration interval for electrical apprentices and electrical specialty trainees. He said the current fee for these apprentices is \$10 per year; that fee will rise to \$50 for five-year electrical apprentices and \$30 for three-year specialty trainees. In the case of an apprentice who may be in his third or fourth year and who will be required to pay the higher fee, the Electrical Bureau has agreed to credit the "excess" fee paid to future license fees. Mr. Keys said the Bureau will also maintain records of work experience for apprentices, who will be able to access those records online.

Responding to questions, Mr. Keys said the education and experience required to become an electrician must be earned concurrently. He said some discussion has taken place about allowing the educational component to be completed first, followed by the experience component. Members of the trade, however, argue that getting hands-on, practical experience during the educational experience is the most effective way to train electricians.

Mr. Keys was asked about whether an applicant's prior experience and/or education might be considered by the Electrical Bureau, such as in the case of former military personnel. He replied that each applicant is evaluated on a case-by-case basis, and such applicants are given credit for a substantial portion of their prior experience and education.

Mr. Keys testified that **H 112** institutes a similar change to five-year apprenticeship registration and two-year specialty apprenticeship registration for the HVAC industry. The current annual fee is \$15, which will increase to \$50 for the five-year registration and \$20 for the two-year registration. As with the fees for plumbing apprentices, the HVAC Bureau decided not to institute a pro-rated system for those who may in the last years of their apprenticeship period.

Asked about the dedicated fund balances for the electrical and plumbing boards, Mr. Keys said the electrical fund balance is approximately \$1.3 million; their annual budget is \$4 million. He said the plumbing fund balance is \$3 million, and their annual budget is about \$3 million; by contrast, their fund balance one year ago was about \$4.5 million. Mr. Keys also reported on the numbers of apprentices in each of the programs, saying that there are currently 1,128 plumbing apprentices, 2,273 electrical apprentices, and 995 HVAC apprentices. He does not have figures on how many of these might

be in their final year of apprenticeship. The number of apprentices is significantly lower than six months ago, probably due to the downturn in the economy and the decrease in new building projects.

Mr. Keys said the Division of Building Safety is trying to establish uniform fees across all three bureaus, and a \$10-per-year fee represents the mid-point of the current fee structures. He said the Division has experienced a significant decline in revenues because of the lower number of permits being issued. Moving to five-year registrations will allow the Division to issue permits less often, which results in a net savings in administrative costs.

MOTION: **Rep. Rusche** moved to send **H 110** to the floor with a **DO PASS** recommendation. He stated that, given the Division's \$25 cost to issue a registration card, he does not think \$50 is excessive, even for those who may be nearing the end of their apprenticeship period. Motion carried on voice vote. **Rep. Rusche** will sponsor the bill on the floor.

MOTION: **Rep. Durst** moved to send **H 111** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rusche** will sponsor the bill on the floor.

MOTION: **Rep. Patrick** moved to send **H 112** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rusche** will sponsor the bill on the floor.

H 113: **Mr. Keys** presented **H 113**, which will allow the Plumbing Board to establish continuing education requirements for journeymen and contractors. He said the industry strongly supports this legislation, and he knows of no opposition to it. Asked about whether self-study courses could satisfy the requirements, Mr. Keys said he anticipates that such courses will be accepted.

MOTION: **Rep. Bilbao** moved to send **H 113** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Bilbao** will sponsor the bill on the floor.

H 115: **Mr. Keys** presented **H 115**, which will establish qualification requirements for inspectors of modular buildings. Mr. Keys said this change will allow the use of inspectors who are qualified to perform electrical, plumbing and HVAC inspections, which will facilitate the multiple inspections required during in-plant construction of modular buildings. He noted that the primary difference between modular homes and stick-built homes is that all plumbing, electrical and structural plans for modular homes are reviewed in advance by the Division, which eases the requirements for inspections at the assembly plant.

MOTION: **Rep. Mathews** moved to send **H 115** to the floor with a **DO PASS** recommendation.

During further committee discussion and questioning, Mr. Keys said the certification for a manufactured home inspector is typically provided by building code organizations such as the International Code Council. Mr. Keys also provided information about the Division's ongoing efforts to cross-train all inspectors to enable them to perform a variety of inspections during slack times. For instance, an inspector who is cross-trained in this manner can perform facilities inspections at schools and other buildings. He said

there is currently no pay differential for such an inspector, although the Division is working toward establishing internal pay grades. He also noted they are aware that consolidated inspections should eventually result in lower inspection fees.

**VOTE ON
MOTION:**

Chairman Black called for a vote on the motion to send **H 115** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Chadderdon** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 2:30 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 9, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: Martin Bilbao, Connolly Smyser; Bob Aldridge, Trust & Estate Professionals of Idaho (TEPI); Mike McGreaham, TEPI; Erik Makrush, Idaho Association of Building Officials; Leon Duce, Association of Idaho Counties; Jeremy Pisca, Alliance of Automobile Manufacturers and Idaho Building Contractors Association; Trent Wright, Idaho Auto Dealers Association (IADA); Mike Hanigan, Hanigan Motors; Victor Villegas, IADA; Mike Kane, Idaho Counties Risk Management Program; Joe Kunz, Building Contractors Association; Kelly Buckland, State Independent Living Council

Meeting was called to order by Vice Chairman Henderson at 1:30 p.m.

MOTION: **Rep. Cronin** moved to approve the minutes of March 3 as written; **motion carried on voice vote.**

Vice Chairman Henderson announced that the first bill on the agenda, **H 217** would be moved down in order to wait for Rep. Roberts, who will be the floor sponsor for the bill.

H 220 **Leon Duce**, Association of Idaho Cities, presented **H 220**. Mr. Duce explained the provisions of the bill, saying that it will change the composition of the Building Code Board by adding one additional contractor member. The Board currently includes one contractor member, who can be either a residential or a commercial contractor. Adding one more contractor member will allow the Board to have one of each, which will afford representation from these two different segments of the industry.

Mr. Duce said the legislation adopts the 2006 edition of the International Building Code and International Residential Code and provides for an expanded negotiated rulemaking process for future adoption of subsequent codes. He said the bill includes restrictions on local jurisdictions with regard to amending codes. For instance, local jurisdictions cannot adopt lower standards of accessibility than those adopted by the State, though they can adopt building codes that are more restrictive than the International Code. Mr. Duce explained the rulemaking process established by H 220, noting that it requires two public hearings, not less than 60 days apart, with written advance notice given to specified groups of people.

During committee discussion and questioning, Mr. Duce said the State

cannot adopt codes that are more restrictive than those of the Residential Code Council. He said the State sets minimum levels of code provisions that are then adopted and enforced by local jurisdictions. Those local jurisdictions, however, may need to pass more restrictive measures, depending on local circumstances such as snow loads. They cannot pass regulations that are less restrictive than those established by the State. Asked about such things as sprinkler requirements in single-family homes, Mr. Duce said H 220 will give the Building Code Board amending authority so they can remove a requirement if necessary.

Mr. Duce said that any code requirements adopted by the Building Code Board would still need to receive Legislative approval through the administrative rules process. At that time, local authorities would have an opportunity to object to any requirements they think are unreasonable. Asked about an apparent discrepancy in terminology in the bill, which refers to the "International Residential Code" in some places and the "International Residential Building Code" in other places, he said the references should be uniform.

Asked whether this legislation establishes an automatic adoption of new building codes, Mr. Duce replied that it does not. He noted that any new requirements will still need to go through negotiated rulemaking, and he said the Building Code Board can amend codes as needed, although they must follow the procedures laid out in H 220.

Jeremy Pisca, an attorney representing the Idaho Building Contractors Association, testified in support of H 220. He said that although the Idaho Association of Realtors has not yet had an opportunity to vote in support of the legislation, he does not think they have any objections to it.

Mr. Pisca said all parties are aware of the need for uniformity in building codes throughout the state, while at the same time allowing for local needs. To that end, a state Building Code Board was established to study the national and international codes as they are proposed and to decide which provisions should be adopted. This establishes a sort of "minimum standard" that is promulgated throughout the state. Then, if local jurisdictions need to adopt more restrictive codes, they are allowed to do so. However, local codes cannot be more restrictive than those set by the International Code Council (ICC). Mr. Pisca also spoke to the addition of another contractor to the board, saying this will allow both a residential and a commercial contractor to sit on the board. He also briefly reviewed the provisions for public hearings and notifications that H 220 requires before decisions are made concerning building code requirements.

Responding to questions from the committee, Mr. Pisca said a municipality cannot change requirements for a project once the permit is issued and the project has been approved. He said the process outlined in H 220 was adopted in order to allow the state Building Code Board the authority to adopt future versions of building codes. However, the Legislature will still need to approve the administrative rules as they are presented each year. Mr. Pisca said in general, the state cannot adopt less strict standards than the federal standards, and the local jurisdictions cannot adopt less strict standards than the state.

Concerns were raised about the fact that the Legislature does not have any

authority over local jurisdictions, should those locals adopt rules that are more restrictive. Additionally, since the Building Code Board is not elected, there is no recourse to remove them in an election process. Mr. Pisca said these concerns led to his insistence on the requirements for negotiated rulemaking that are in the bill.

Vice Chairman Henderson noted that two letters of support for **H 220** had been submitted to committee members, one from the Board of Professional Engineers and Professional Land Surveyors, and one from the Idaho Association of Building Officials.

A question was raised about whether the bill had received sufficient exposure to such groups as the cities or the Independent Living Council, and whether or not they would have objections to its provisions. Chairman Black noted that representatives of those groups were present in the room, and he asked them to testify if they wished to do so.

Kelly Buckland, State Independent Living Council, testified in support of **H 220**, saying he has been involved in the issue of building codes for about ten years. He said this bill is the result of three years of work among interested parties. Mr. Buckland said his major area of concern is accessibility for disabled persons. He said if a builder abides by the 2003 International Building Code, he will comply with about 90% of the federal accessibility standards. The provisions of the 2006 Code will assure approximately 99% compliance.

Eric Makrush, Idaho Association of Building Officials, testified in support of **H 220**. He said he has traveled around the state of Idaho to seek input from interested parties, including engineers, architects, and the Division of Building Safety. Mr. Makrush said all have voted to support this legislation.

Kerry Ellen Elliott, Idaho Association of Counties, said that although her organization has not had an opportunity to discuss **H 220**, she does not anticipate any problems among her members.

Joe Kunz, Building Contractors Association of Southwest Idaho, testified that his organization supports **H 220**.

Chairman Black pointed out a letter of support submitted to committee members from the American Council of Engineering Companies of Idaho. He also noted that he has not received any phone calls or other input opposing **H 220**.

MOTION:

Rep. Crane moved to **HOLD H 220** until Wednesday, March 11.

In support of his motion, **Rep. Crane** said the bill has merits but he is concerned that it does not allow for an appeal process for local jurisdictions. He thinks local jurisdictions should be allowed to have less restrictive rules if they want.

A concern was raised that, absent statewide uniformity, insurers will not know what the building standards are for the state of Idaho and therefore will have difficulty determining underwriting requirements. Some committee members also expressed a need for additional time to discuss this legislation

with their constituents and to determine whether local jurisdictions are given adequate authority in this bill.

VOTE ON MOTION:

Chairman Black called for a vote on the motion to **hold H 220** until Wednesday, March 11, at which time it will be reconsidered by the committee. **Motion carried on voice vote.**

H 217:

Trent Wright, Idaho Auto Dealers Association, presented **H 217**, saying the legislation is also supported by the Idaho Independent Auto Dealers, the Idaho Truckers Association the Alliance of Automobile Manufacturers, and General Motors Corporation. H 217 establishes guidelines to end franchise agreements between auto dealers and manufacturers, and specifies who is responsible for the dealership's equipment, parts, specialty tools, and inventory. It also sets specific guidelines on when payments should be made. Mr. Wright said the legislation is budget-neutral and lays out the process that should take place when dealers go out of business. He said it will provide protection for both dealers and manufacturers.

In response to committee questions, Mr. Wright said in Idaho a car is considered "used" if it has ever been titled. If never titled, it is technically a "new" car regardless of the number of miles it has been driven. For purposes of a manufacturer's re-purchase of inventory, the cars need to be new and also "undamaged." Mr. Wright said any mileage over about 5,000 miles would probably place a car into the "damaged" category.

Mr. Wright said this legislation was crafted by the Idaho Automobile Dealers Association, using existing code and provisions from other states. He said the Alliance of Automobile Manufacturers is supportive of the bill.

Ken McClure, representing General Motors, testified on **H 217**, saying that although he did work with the bill's sponsors to address his clients' concerns, he is not totally satisfied with the results. He said although he does not support the bill, neither does he oppose H 217.

Responding to a question from the committee, Mr. McClure said he is not aware that Saturn is going out of business. He said General Motors may be investigating the possibility of selling the brand or spinning it off to be its own company. If Saturn is "spun off" or purchased, Mr. McClure said the provisions of this bill would not apply.

Mr. Wright was recognized to further testify on **H 217**. He said auto dealers are seeking, through this legislation, the same level of protection that is already afforded to implement and RV dealers in Idaho. He said the auto industry is at least three or four times larger than the RV industry, and should be similarly protected.

Mike Hanigan, representing Hanigan Motors, testified **in favor of H 217**. Mr. Hanigan is a third-generation auto dealer, and he said this legislation comes at a critical time for auto dealers, as they struggle to survive the downturn in sales resulting from financing and economic downturns. Mr. Hanigan said Chrysler dealers were recently told that the company would not survive unless dealerships purchased more vehicles. Although he did not want additional inventory, Mr. Hanigan said he ordered more cars because it is crucial for his manufacturer to remain in business. However, increasing

his flooring places his family's financial stability in jeopardy, since he has to increase the amount of his bank loans. He said his bank recently informed him that it is doubling his collateral requirements and is requesting first title on land he owns, in addition to the normal collateral.

Mr. Hanigan said auto dealers are now thinking about what their options are in case they are forced to terminate a franchise agreement with an auto manufacturer. He noted that there may be too many dealers in certain areas of the country, and the elimination of one dealer may make it possible for the remaining dealers to succeed. However, if some of the terminated dealer's vehicles and parts end up being sold at liquidation prices, that will hurt other dealers in the area. Mr. Hanigan said the only fair arrangement in the case of a terminated franchise agreement is to have the manufacturer repurchase the automobiles, parts, and special tools and redistribute them to surviving dealerships.

Responding to committee questions, Mr. Hanigan said this legislation will not help at all if Chrysler or another manufacturer simply declares bankruptcy. He said the termination process requires at least 90 days, and if a manufacturer were to declare bankruptcy, his service agreement becomes null and void.

Mr. Hanigan recounted the situation in Emmett with a former auto dealer, Bill Buckner, whose dealership was involuntarily closed in December 2008. He said Key Bank, the holder of the flooring plan, took the inventory from the car lot, returning the 2009 models to the manufacturer for redistribution. The 2008 models, which were considered "used" cars because they had been titled, went to the auto auction and were purchased by used car retailers. Mr. Hanigan said there was an effort to return parts and special tools.

MOTION: **Rep. Cronin** moved to send **H 217** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Roberts** will sponsor the bill on the floor.

S 1062: **Bob Aldridge**, representing the Trust & Estate Professionals of Idaho, presented **S 1062**, a bill dealing with the disposition of human remains. Mr. Aldridge said this legislation addresses cases in which there are not sufficient pre-arrangements made for funerals, which can cause disputes regarding the disposition of the decedent's remains. He said a question has arisen with regard to the exact definition of "prearranged funeral burial plan." Rather than trying to define when a prearranged plan exists, the bill provides that any matters not covered by a prearranged plan are settled as stated in Idaho Code. Mr. Aldridge said this bill recognizes that people sometimes make incomplete plans, and this bill will clarify who decides what arrangements to make.

In response to questions from the committee, Mr. Aldridge said the plan does not have to be paid for in advance, although pre-arranged funeral plans usually are pre-paid.

MOTION: **Rep. Mathews** moved to send **S 1062** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Mathews** will

sponsor the bill on the floor.

S 1080 **Michael Kane**, representing the Idaho Counties Risk Management Program (ICRMP), presented **S 1080**, which will repeal language in current law that limits the aggregate amount a political entity can invest in real estate. Mr. Kane said this language is no longer necessary, following legislation last year that allows ICRMP to invest in the same manner as regular insurance companies.

MOTION: **Rep. Gibbs** moved to send **S 1080** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.** **Rep. Gibbs** 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 C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

- DATE:** March 11, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 228
- MEMBERS:** Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin
- ABSENT/
EXCUSED:** None
- GUESTS:** Jerry Peterson, Building Trades; Jack Lyman, Idaho Manufactured Housing Association; Erik Makrush, Idaho Association of Building Officials; Joe Kunz, Building Contractors Association; Leon Duce, Association of Idaho Cities; Dennis D. Davis, City of Nampa Building Department; John Eaton, Idaho Association of Realtors; Mike Walker, Professional Fire Fighters of Idaho; Jeremy Pisca, Idaho Building Contractors Association; Kelly Buckland, State Independent Living Council
- H 220:** **Jeremy Pisca**, appearing on behalf of the Idaho Building Contractors Association, testified on **H 220**, which was held in committee from Monday, March 9, in order to allow further consideration. Mr. Pisca said the bill is the result of years of discussions among building officials, counties, and cities in an effort to arrive at a uniform building code for the entire state of Idaho.
- Mr. Pisca explained that the Building Code Board was established as a repository for the International Building Code and charged with the responsibility of reviewing the International Code and determining which requirements would - and would not - work for Idaho. The Board then sets minimum building codes for the state, but they understand that local jurisdictions must have the ability to make certain codes more restrictive, depending on their unique circumstances. Mr. Pisca said one such circumstance is the unusually high snow loads experienced in places such as McCall and Sun Valley.
- One area of concern with regard to local municipalities setting higher standards is the issue of fire sprinklers. Mr. Pisca said some local authorities have added this requirement to their local codes. Building contractors, however, oppose sprinkler installation in single-family homes because they add considerably to the cost of construction and their effectiveness is, at best, arguable.
- Mr. Pisca said over the past few years there has been considerable discussion among many parties including the Association of Idaho Cities and the Idaho Association of Building Officials. The discussions were often rancorous and did not result in any agreement. Last year it was decided that some provision needed to be included that would allow local municipalities to make their requirements more strict.

Finally, in January of this year, Mr. Pisca began negotiations with Eric Makrush, representing the Building Officials, and Leon Duce, representing the Cities. These negotiations resulted in H 220, an agreement that provides the cities with the flexibility they need to make state Codes more restrictive. The bill also requires ample notice of public hearings and gives everyone an opportunity to provide comments. Mr. Pisca said he does not know of any interested party that opposes this legislation.

Mr. Pisca briefly reviewed the provisions of H 220, noting that it adds one contractor to the Code Board and adopts the 2006 version of the International Code. He stated that, in addition to the notice and public hearing requirements, there will also be Legislative review of any rules that are proposed.

Any effort to send H 220 to General Orders in order to “water it down” will only result in eliminating the whole idea of uniform building codes, according to Mr. Pisca. He asked that the bill be sent to the floor with a “do pass” recommendation, and he committed to working during the interim to see if there are any further provisions that might be successfully implemented to address concerns of local jurisdictions.

Leon Duce, Association of Idaho Cities, was recognized to respond to a question about whether or not the counties had signed off on the legislation. He said **Kerry Ellen Elliott**, representing the Idaho Association of Counties, held a conference call with her legislative committee and they voted to support this legislation.

Erik Makrush, Idaho Association of Building Officials, testified **in support of H 220**, saying he had a discussion with Ed Wagner, Chairman of Idaho’s Building Code Board, who explained the current appeals process used by the Board. Mr. Makrush said H 220 allows any entity, whether a local government, a building contractor, or a private citizen, to appeal any portion of the code requirements to the Board. The Board, in turn, can make decisions about lowering international code standards for the state. Mr. Makrush said this process adequately addresses some of the concerns expressed by local jurisdictions.

Dennis Davis, Director of Building Safety and Facilities Development for the City of Nampa, testified **in support of H 220**. Mr. Davis said during his many years of working on construction-related issues with the Legislature, he has always been encouraged to bring “consensus” legislation. He said this bill is the result of discussion among many interested parties, all of whom had the opportunity to provide input. Mr. Davis said he believes the paramount interest of all those involved in developing H 220 has been the safety of the citizens of Idaho.

Mr. Davis pointed out that local governments are not required to adopt any local building codes. He noted that in 2000 the Legislature decided, however, that if a local building code is adopted, there needs to be some uniformity in terms of structural integrity, fire and life safety requirements. It is expensive and complicated for builders to deal with different sets of rules in different jurisdictions. Having standardized uniform codes is beneficial for the building industry as well as for the local entities themselves. Mr. Davis said H 220 has unanimous support from all segments of the

building industry. He noted that the Building Code Board membership has the greatest diversity of talent and expertise among all the boards that oversee the building trades, which enables them to sort through the International codes and establish Idaho's minimum requirements.

During committee questioning and discussion, Mr. Davis said in his experience there has been great hesitation when local jurisdictions want to adopt building codes that are less restrictive than state minimum standards. He pointed out that it is difficult to change one provision of a code and not affect a provision elsewhere in the code. Another concern is that local jurisdictions may be exposed to certain liabilities if they adopt code provisions that are below the recognized minimum standards.

Mr. Davis was asked what options a city would have if the Building Code Board adopts the 2009 International Code as written, which requires fire sprinklers in single-family dwellings. He replied that the city can appeal to the Code Board, which would have the opportunity to write an equivalent level of protection. For instance, the fire marshal might say the most important aspect, in his view, is some type of early warning of a fire, and the Board could then enhance the smoke alarm requirement rather than require sprinklers. He said local jurisdictions are not completely hamstrung by state regulations since there is a mechanism to make appeals.

In response to further questions, Mr. Davis said the provisions of H 220 will require two public hearings with advance notice. He said although this will cause some expense, the impact will be minimal and the opportunity to all interested parties to provide input is valuable enough to justify the added costs. He said H 220 provides an appeal process to the Code Board regarding their decisions on statewide standards. He also noted that appeals can be heard and decided regarding a local jurisdiction's interpretation of state codes. For instance, a builder might ask to be allowed to use some new building material or method of construction which a building official may not recognize as meeting code requirements. In this instance, the Building Code Board could determine whether the new material or method is acceptable. The decision of the Board in such cases, however, would not alter statewide codes.

John Eaton, representing the Idaho Association of Realtors, testified **in support of H 220**, saying his organization met earlier in the day and voted to support the legislation. Mr. Eaton noted that he has been involved in the lengthy negotiations over the past few years that have finally resulted in this bill.

Mr. Eaton said there are instances in which the national building codes are not workable in Idaho. For instance, most homes in Idaho are built on foundations, while homes in other locations are slab-built. In this instance, the Building Code Board was able to develop ventilation standards that are "equivalent" to the national standards, which offer the same level of protection but are adapted to Idaho's construction practices. In the case of fire sprinklers, Mr. Eaton said currently there is no process in place that allows local jurisdictions to remove that requirement from the statewide building code. This legislation establishes a process to accomplish that.

In response to committee questions, Mr. Eaton said H 220 will enable the state Building Code Board to deal with the ramifications of the 2009

International Building Code when it is adopted. No mechanism has been in place until now, which is the reason the state has not adopted the 2006 codes. Mr. Eaton said that even without statewide adoption of the 2006 codes, however, most jurisdictions are enforcing its provisions by ordinance. He said when the 2009 Code is adopted, the Legislature will still need to approve of any rules that are put in place. Passing H 220 will allow local jurisdictions to request stricter standards in places where it is required.

MOTION: **Rep. Jarvis** moved to send **H 220** to the floor with a **DO PASS** recommendation.

Arguing in opposition to the motion, **Rep. Crane** stated he likes what the bill is trying to accomplish but is concerned that there is no provision that allows local jurisdictions to make their codes less restrictive.

VOTE ON MOTION: **Motion carried on voice vote.** **Reps. Crane** and **Patrick** voted in opposition to the motion. **Rep. Jarvis** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:15 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 17, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: Val Brooks, Idaho Credit Union League; Martin Bilbao, Connolly Smyser; Woody Richards, Lobbyist; Joie McGarvin, Lobbyist; Pam Eaton, Idaho Retailers Association; Julie Taylor, Blue Cross of Idaho; Baron Glassgow, Rocky Mountain Propane Association; Gary Van Hees, Idaho Liquefied Petroleum Gas Safety Board; David Lehman, North Idaho Health Network; Roy Eiguren, Northwest Grocers; Kevin Keller, PPS Co.,Inc.; Suzanne Budge, SBS Associates; Dawn Justice, Idaho Bankers Association; Toni Lawson, Idaho Hospital Association

Chairman Black called the meeting to order at 1:30 p.m.

MOTION: **Rep. Bilbao** moved to approve the minutes of March 9 as written; **motion carried on voice vote.**

MOTION: **Rep. Cronin** moved to approve the minutes of March 11 as written; **motion carried on voice vote.**

Suzanne Budge, representing the Rocky Mountain Propane Association, appeared before the committee to present a report on the propane industry and Idaho's propane licensing act, which passed in 2005. She introduced several members of the propane industry who will present information to the committee. **Gary Van Hees**, Chairman of the Idaho LPG Board, will explain the Board's operation, the licensing requirements, and the application of the act. **Baron Glassgow** is President of the Rocky Mountain Propane Association. **Kevin Keller**, a propane dealer, will address the variations in regulations among Idaho, Wyoming and Utah.

Ms. Budge distributed a packet of information that provides an overview of propane as a fuel source and a summary of the national safety codes dealing with propane gas. She also pointed out the time line that has occurred with regard to requesting an LP Gas specialty license. Ms. Budge said specialty HVAC contractors make installations both inside and outside residences, and their licensing is being adjusted every year.

Gary Van Hees, President of the Idaho LPG Safety Board, stated that the Board was created in 2005, and Idaho adopted nationally-recognized codes for storing and handling liquefied petroleum gas. Mr. Van Hees explained that propane gas facilities are categorized into either large or small, and

there is a single dealer classification, for purposes of licensing. If a propane dealer may respond to a customer emergency involving propane gas, that dealer has to show documentation that he or she has completed a basic certified employee training program before licensing is granted.

Mr. Van Hees said there are about 200 licensed dealers in Idaho, a similar number of smaller dealers, and about 85 large dealer storage facilities. All licensed facilities are subject to inspection, carried out through the Bureau of Occupational Licensing. Mr. Van Hees said compliance is at almost 100% for large dealer facilities, while awareness and compliance have been at a somewhat lower level for retail facilities. He said a few select operators have chosen to shut down rather than comply with the regulations, and a few other cases have progressed to disciplinary action.

The jurisdictional separation between HVAC and LPG installations is clearly delineated in Idaho law, which says that the edge of the house provides the dividing line. In other words, propane installers are allowed to work outside the house, while HVAC installers perform work inside the house. Idaho law also requires liability insurance for transporting propane, as required by the Department of Transportation.

Mr. Van Hees said inspection is now required only every three years, rather than annually, since LPG hardware is unlikely to become noncompliant. This triennial inspection schedule does not compromise public safety and keeps inspection fees under control.

Ms. Budge addressed the problem of overlapping licensing between HVAC and LPG installers. She explained that in many parts of rural Idaho propane gas is the only source for home heating, short of wood or electricity. Historically, propane installers have performed work both inside and outside homes, and these installers were grandfathered in when recent licensing requirements were adopted for HVAC installers. However, if a business wants to have new employees perform installations inside residences, they would have to be licensed under the specialty HVAC licensing requirements. This would require four years of training, which the LPG people consider an unnecessarily long process, given the types of installations they perform.

Ms. Budge said the propane industry would like to develop a specialty license for their employees so they can perform installations both inside and outside residences. She noted that the HVAC Board can provide such a specialty license, and has already done so for hearth and waste oil. She said the propane industry went through the process of designing a training program but it was subsequently denied approval by the HVAC industry.

Kevin Keller, a southeast Idaho propane dealer, was recognized to respond to a question about the discrepancies between regulations in Utah, Wyoming and Idaho. He said Utah has licensing and testing based on a nationwide training program, which allows propane dealers to do in-house installations if they meet codes and pass inspections. Wyoming has no licensure for its statewide HVAC practice. In Idaho, HVAC contractors are licensed under the Division of Building Safety. Idaho requires a two-year training program to become a full HVAC apprentice, and another two years to become a journeyman who can work independently.

Mr. Keller said he has employees who have passed certification tests, who understand safety codes, and who can do installations in Utah but not in their own hometowns in Idaho. He said he would like to work with the Division of Building Safety to develop a two-year certification program. He noted that his company deals with area heaters, gas refrigerators, lights and fireplaces, but they do not work with air conditioners, boilers, or whole-house heating systems.

Ms. Budge was asked whether the negative decision regarding the specialty licensing program could be appealed to the HVAC Board. She said after they were denied without any discussion, they were told that the Board had discretion to reject the proposal without explanation. Ms. Budge said the matter seems to have reached a dead-end at this point, since a formal letter of denial has been issued and the staff has indicated that it is unlikely the matter will be able to move forward.

Mr. Keller was asked about waste oil heaters. He said these units are primarily used as a safe method of disposing of waste oil by using it for space heating, usually in a workshop. Mr. Keller said these heaters actually work fairly well for heating these spaces.

H 227:

Rep. Rusche presented **H 227**, a bill to change the Idaho Code section on payday loans. He stated this is the second attempt at legislation this session on this matter, and noted that the first attempt was opposed by the industry. Rep. Rusche said the Department of Finance has found some flaws in the current effort, H 227, and these flaws may expose consumers to even greater risk. Rep. Rusche will therefore ask the committee to hold the bill, although he said there will be other attempts to solve the problem, perhaps even this session.

Val Brooks, Governmental Affairs Director of the Idaho Credit Union League, testified on **H 227**, saying she has seen firsthand evidence of credit union members, especially those of modest means, who become enmeshed in a web of high-interest payday loans. She said credit unions have a wide variety of credit available to their members, and make loans for as little as \$50, with reasonable interest rates and no or low fees. One credit union makes loans up to \$500 specifically aimed at helping a member pay off a payday loan or avoid getting into one. They will also double the loan amount, up to \$1000, and put the additional \$500 into a savings account. The length of the loan is usually 12 to 18 months. At the end of the pay-back period, the credit union member has paid off the payday loan, and also has savings in reserve to help avoid another payday loan in an emergency. Ms. Brooks said financial education is another important component in helping consumers avoid payday lenders. She said debt reduction services offer counseling on how to get and stay out of debt and how to budget. Ms. Brooks also spoke about the national financial education and literacy education programs that are available through the credit unions.

In answer to questions from the committee, Ms. Brooks said that, although she cannot speak for banks, she thinks the credit unions have always tried to be responsive to their customers' short-term borrowing needs in order to avoid payday lender services. She said their interest may be greater now, since the advent of more payday lenders in the state of Idaho. Credit unions, like banks, used to require more time to make lending decisions, but the

current practice is to allow loan officers to make virtually on-the-spot loan decisions.

Mike Larsen, Consumer Finance Bureau Chief of the Department of Finance, testified on **H 227**, commending Rep. Rusche for bringing this legislation. Mr. Larsen particularly commended the provision in H 227 that would make payday loans void if the lender is unlicensed. He said the bill also grants authority to the Department to issue cease and desist orders for unscrupulous practices. In addition, it requires payday lenders to provide consumers with a list of available debt counselor services.

Mr. Larsen said the problem with H 227 lies in the provision of extended payments for borrowers who have defaulted on their payday loans. Although the concept is sound, some wording in the bill may present problems because it allows a fee to be charged for the extended payments. Mr. Larsen said the Department of Finance would like to study the ramifications of this provision a little more closely before the legislation moves forward.

Responding to questions, Mr. Larsen said the Department of Finance is responsible for enforcing payday loan regulations. He said most of the problems seen by the Department involve internet operations, which often do not comply with Idaho's licensing requirements. Mr. Larsen said H 227 will give the Department authority to monitor licensing. Asked how internet lenders collect on bad debts, Mr. Larsen said he presumes that enough of their borrowers pay back the debts to make it a profitable venture. He said there are payday lenders on the internet who are located as far away as Holland and other parts of Europe. He reiterated that H 227 will render unlicensed lenders' loans void and therefore uncollectible.

Mr. Larsen said the Department receives very few complaints about payday lenders; in 2007, there were a total of 11 complaints filed. He said the Department follows through to make sure the lenders are complying with Idaho law and, if they are in violation, the business may have its license revoked or suspended.

Rep. Rusche stated that he may amend H 227, but will decide whether to do so after he studies a similar bill sponsored by Sen. Keough.

MOTION: **Rep. Collins** moved to **HOLD H 227** in committee; **motion carried on voice vote.**

S 1126 **Pam Eaton**, President of the Idaho Retailers Association, presented **S 1126**, a bill that repeals the current prohibition on retailers from setting limits on items offered for sale. Ms. Eaton said the law was implemented in the mid-60s but has not been enforced for at least 20 years. This obsolete law was brought to the Idaho Retailers' attention last year during the rice shortage, when retailers were limiting purchases. The Attorney General's office has said they do not enforce this law, and it was decided that the law should be repealed because it is no longer practical or fair in today's marketplace. Ms. Eaton pointed out that not allowing retailers to place limits on items is actually more harmful to consumers because it allows some customers to buy the entire available stock of merchandise.

MOTION: **Rep. Chadderdon** moved to send **S 1126** to the floor with a **DO PASS**

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

H 174:

Rep. Nonini presented **H 174**, explaining that this bill is different from H 74, which the Business Committee introduced about six weeks ago. Rep. Nonini said he has a business relationship with Northwest Specialty Hospital because he sells them employee benefits through Regence Blue Shield. However, he noted that he will not experience any financial gain or loss if this bill is passed.

Rep. Nonini first pointed out the language in H 174 that is different from his earlier bill: on line 34, the bill states that a managed care organization “may not decline to contract with a qualified Idaho licensed and regulated hospital.” The previous bill, H 74, used the term “any qualified health care provider.”

Rep. Nonini then gave background information about why the “any willing provider” law was put into place in 1994, through legislation sponsored by Sen. Cameron. He said that prior to 1994, insurance companies could negotiate reimbursement rates with a select group of providers and exclude other providers. Insurance companies built collective networks with whom they would contract. The “any willing provider” legislation stipulated that if a qualified provider wants to participate in a network that an insurance company has put together, it should be allowed to do so.

Rep. Nonini said the “any willing provider” law often pits the Idaho Medical Association against the Idaho Hospital Association and it also agitates the insurance companies, who want to be able to negotiate with whomever they want.

Since the health care delivery system has changed over the years, Idaho Code needs to be amended to meet current conditions. Rep. Nonini spoke about the history of Northwest Specialty Hospital (NSH) in north Idaho, saying it was formed several years ago by a group of surgeons and doctors who were frustrated over delays in surgery suites and staffing at Kootenai Medical Center (KMC).

Rep. Nonini testified that Joe Morris, the CEO of Kootenai Medical Center, issued a statement saying anyone who had an ownership interest in Northwest Specialty Hospital would lose privileges at KMC. In two separate Attorney Generals’ opinions, this action was found to be in violation of the anti-trust laws, and Mr. Morris subsequently withdrew the threat. After the hospital opened, Blue Shield was willing to negotiate with doctors but Blue Cross was not. Rep. Nonini pointed out that Joe Morris also serves on the board of Blue Cross, and noted that this could represent a conflict of interest with regard to Blue Cross’s unwillingness to negotiate with doctors at Northwest Specialty Hospital.

Rep. Nonini said both Kootenai Medical Center and Northwest Specialty Hospital continue to flourish. He said KMC has approximately \$60 million in the bank and pays for its new construction out of their own financial resources. Although KMC has the authority to levy property taxes, they have not found it necessary to do so for the last 17 or 18 years because of their sound financial position. Northwest Specialty Hospital, although it does not enjoy the same tax-exempt status as KMC, is also financially sound,

employing about 100 people and paying them competitive wages. NSH pays property taxes as well as income tax on their profits. Both hospitals have been able to operate successfully.

Rep. Nonini explained the three types of contracts: traditional plans, preferred provider (PPO), and point of service (POS), formerly known as health maintenance organizations (HMO). He said most doctors, in excess of 90%, in a given area will participate in traditional and PPO plans. HMO plans are more restrictive, but are one way to help control health care costs.

In every part of Idaho except the five northern counties, Regence Blue Shield and Blue Cross invite all doctors and all hospitals in the region to participate in their networks, and the insurance company and the doctor negotiate reimbursement rates. In north Idaho, however, Blue Cross does not have a POS network but instead they subcontract with North Idaho Health Network (NIHN) for POS services. Rep. Nonini pointed out that Joe Morris, CEO of Kootenai Medical Center, is also the person responsible for putting together the North Idaho Health Network, and he remains active in its governance and operation.

The problem that has arisen is that when NSH has asked to participate in POS contracts, the insurance companies have maintained that they don't have POS care contracts. Rather, the insurance companies subcontract with North Idaho Health Network. When NSH asks to be a part of North Idaho Health Network, they are consistently refused.

In 2007 Northwest Specialty Hospital filed a lawsuit over the matter, and in the fall of 2008 a judge ruled in favor of North Idaho Health Network, saying NIHN is not an insurance company and did not have to comply with the "any willing provider" law.

Rep. Nonini said, in his view, Joe Morris and NIHN have found a way to circumvent the existing "any willing provider" law. The Department of Insurance has no regulatory authority over a stand-alone network, only over insurance companies. H 174 addresses this problem by saying that insurance companies may not decline to contract with qualified health care facilities. This would allow Northwest Specialty Hospital to negotiate and participate in POS care contracts with Blue Cross and Regence.

The bigger problem, according to Rep. Nonini, is that this north Idaho model could be used in other parts of the state. He said if H 174 is not passed, more hospitals will form stand-alone networks because they can then circumvent existing law and negotiate with small group of providers. The judge's decision in the north Idaho case will be used as support for such arrangements.

Rep. Nonini said he believes the "any willing provider" law should be applied equally and fairly to all. He said this law has served the citizens of Idaho well over the last 15 years, assuring fair and equal access to health care. Contrary to what some will say, this law has obviously not been detrimental to the success of Kootenai Medical Center or other hospitals in Idaho. Rep.

Nonini said specialty hospitals such as Northwest Specialty Hospital have not taken sufficient business to harm the large hospitals.

Rep. Nonini distributed a document showing comparisons between KMC, NSH, and all reporting hospitals in Idaho and the United States. He noted that the statistics show Northwest Specialty Hospital to be superior to Kootenai Medical Center in several categories. The document also reflects lower costs at NSH than at KMC for similar procedures. The statistics were taken from a federal website used to judge hospitals.

The purpose of the handout was to illustrate that Northwest Specialty Hospital is a credible facility that provides good services, better surgery outcomes, and lower infection rates, often at a lower cost. Rep. Nonini said KMC has a higher volume of patients and considerably higher costs. He also presented a number of patient satisfaction surveys, all of which indicated a high degree of satisfaction. He said he tried to get similar information from Kootenai Medical Center but none of his phone calls were returned.

Rep. Nonini was asked whether the language in section (3) would remove an insurance company's ability to apply the terms and conditions in their contracts. He said one of the reasons to include this language is that the Idaho Hospital Association will not allow specialty hospitals to join their association, on the grounds that they do not offer ob-gyn services or emergency services. He said if Northwest Specialty Hospital had an opportunity to sit down with the North Idaho Health Network, the conditions could be worked out between the contracting parties.

Julie Taylor, representing Blue Cross of Idaho and appearing also on behalf of the Idaho Association of Health Plans, testified **in opposition to H 174**. Ms. Taylor said the health care market has changed since 1995 when the "any willing provider" law was passed. She said Blue Cross tries to contract with providers who show the best outcomes, the best results, and can produce the healthiest populations.

Ms. Taylor said she believes that "any willing provider" laws do not have any place in today's market, and she asked that the bill be referred to the health care task force for further study. She said in this era of escalating health costs, insurance companies need every tool available to contract and drive discounts in order to provide quality care and good health care outcomes. The "any willing provider" statute does not allow them to do that.

Ms. Taylor distributed a map showing that as of November 2008 seven states in the U.S. have strict "any willing provider" laws. Seventeen other states have some form of this law. She also referenced Federal Trade Commission and Department of Justice findings concerning "any willing provider" laws.

Responding to questions, Ms. Taylor said patients have a choice in the type of health care coverage they purchase and they can also choose doctors, although they may have to pay more if they use doctors outside the network. She said Idaho has prohibited closed network HMOs and in their place there are "point of service" products. In north Idaho, the difficulty is with managed care products only. Ms. Taylor said Blue Cross does contract with Northwest Specialty Hospital for both traditional and PPO plans, but not for managed care (point of service) contracts.

Ms. Taylor was asked how Blue Cross could question the quality of the care

at Northwest Specialty Hospital when they already provide insurance for people who go to this facility. She responded that her company questions the need for the “any willing provider” law to be in place at all. She said it is inadvisable to make a bad law worse by expanding it.

Asked whether subsection (2), line 17, would give insurance companies the ability to set certain terms and conditions such that they could exclude certain providers, Ms. Taylor said to some extent that is correct. She said, however, that developing different contracts for different specialties would be an administrative nightmare.

David Lehman, Principal Strategic Advisors, representing Kootenai Medical Center and the Employers Health Coalition of Idaho, testified **in opposition to H 174**. Mr. Lehman said he believes the legislation is anti-competitive. He said health quality standards are eliminated by the bill, and ultimately there will be a negative impact on health care costs and health care policy.

Mr. Lehman said the new section (3) in H 174 will mean that specialty hospitals can contract with insurance companies but are not required to meet the same quality standards. He said the Employers Health Coalition has been working on quality standards and this portion of the bill causes significant concern for most employers.

Mr. Lehman distributed a packet of information, including a letter from Newt Gingrich that expresses opposition to specialty hospitals’ ability to “cherry-pick” low-risk, high-profit cases. He also referenced Federal Trade Commission and Department of Justice studies that deal with competition in the health care marketplace, noting that “any willing provider” laws have resulted in higher health care costs by reducing the ability of insurers to offer less expensive plans.

During committee questions and discussion, Mr. Lehman said if the government intervenes in the marketplace, it serves to impede markets and reduce competition. He gave a specific example of how the state of Idaho is saving about \$1 million per year on incontinence supplies as a result selective contracting. He said this bill will reverse the direction toward more selective contracting and therefore will cost consumers more. Mr. Lehman recommended that H 174 be referred to the health care task force for a broader discussion.

Asked to explain specifically how the state of Idaho or policyholders would be harmed if this law is passed, Mr. Lehman said that subsections (1) and (2) would no longer be in effect for hospitals located next to specialty facilities. He said consumers still have a choice of health care providers, if they are willing to pay the higher cost.

Answering further questions, Mr. Lehman stated that he personally asked Joe Morris about the conflict between him and Northwest Specialty Hospital, and Mr. Morris indicated that he was not aware of any conflict. He said in his view the best outcome for H 174 would be to refer it to the health care task force, as part of a substantial review of health care policy and how it is regulated in Idaho.

Toni Lawson, Vice President of the Idaho Hospital Association, testified **in**

opposition to H 174. Ms. Lawson said Joe Morris has been made a part of the problem in north Idaho, but he has set a retirement date in the near future so perhaps some of these problems will disappear.

Ms. Lawson said the North Idaho Health Network was formed in 1994, long before Northwest Specialty Hospital existed. According to the medical director who helped start it, the Network was an effort to improve the health care system so that managed care leads to better care and not just increased profits for insurance companies. She said H 174 puts those efforts of the five hospitals in the network in jeopardy. She also noted that, in her view, the bill will force the network to partner with any hospital, regardless of its business model, so this is a freedom of contract issue.

Ms. Lawson testified that the comparative figures provided by Rep. Nonini are not current since the website from which they came has a year's lag time. She presented more current data from Kootenai Medical Center, showing there is no quality gap between the two facilities. She also pointed out that KMC treats a higher percentage of Medicaid and Medicare patients than Northwest Specialty Hospital.

Asked how consumers would benefit from Northwest Specialty Hospital being excluded from the network, Ms. Lawson said all the hospitals in the network are full-service facilities who can work together to address a variety of issues. This is not possible with a facility that specializes in surgical and specialty areas. She said the community benefits from increased service and best practices.

Ken McClure, who represents the Idaho Medical Association (IMA), was asked whether the wording in **H 174** would effectively eliminate the requirements outlined in section (2) that refer to practice standards and quality requirements. Mr. McClure said insurance companies can include conditions in any contracts they may extend to providers, and if the provider does not want to agree to the conditions, it will not sign. He said the word "notwithstanding" would not affect how the legislation will work in the real world, since the contracts they extend will be the same as those extended to other hospitals.

Mr. McClure said a facility such as Northwest Specialty Hospital would not be required to provide emergency care under the provisions of H 174 since they do not have an emergency room. Rather, they would be required to provide the services they do have according to the same conditions as other hospitals. He said closed-panel HMOs do not exist in Idaho, which is good for patients. The doctor-patient relationship should not be controlled by insurance companies; if a doctor is legally qualified to provide services, the patient should be able to choose that doctor if he or she wishes.

Mr. McClure said the IMA initially proposed "any willing provider" legislation in Idaho and he asked the committee not to send this bill to the health care task force. He said the debate about "any willing provider" was fully heard before the law was put into place and does not need to be revisited. He said some parties like the law while others, such as insurance companies, do not. Mr. McClure said if "any willing provider" is repealed, patients will no longer have an opportunity to choose their own physicians.

Asked if north Idaho is the only instance of the "any willing provider" law

being circumvented, Mr. McClure said there are other examples that were not brought before the committee at this time. He said passing H 174 will mean that “any willing provider” will apply in this specific circumstance and the insurance companies will be required to offer contracts to Northwest Specialty Hospital or any other similarly situated hospital.

Woody Richards, representing American Family Insurance, testified **in opposition to H 174**. He said the situation in north Idaho is not one of “skirting” the law, but rather illustrates the application of the safe harbor provisions included in the “any willing provider” legislation. Mr. Richards said he is concerned that H 174 will, in fact, undermine the terms and conditions that insurance companies can require of providers.

Rep. Nonini was asked whether he had requested an Attorney General’s opinion on this legislation. He replied that he did not do so, although he did have it reviewed by the Department of Insurance Deputy Attorney General.

Rep. Nonini was recognized to conclude his testimony on H 174. He stated he is simply trying to ensure that health care consumers have access to fair health care. He pointed out that the Employees Health Care Coalition would not be affected by this bill, since they are ERISA exempt. He said the legislative intent of the “any willing provider” law is not to close networks, but rather to provide the ability to choose providers.

Rep. Nonini said the only instance of a stand-alone network is the North Idaho Health Network. However, if H 174 is not passed, he believes there will be more stand-alone networks formed in order to bypass the “any willing provider” laws. The argument that insurance companies would have to contract with incompetent or inadequate facilities is not valid because health care facilities are still regulated by the Department of Health & Welfare. He said Northwest Specialty Hospital is a regulated, licensed health facility.

Responding to the “cherry picking” argument, Rep. Nonini said specialty hospitals have never indicated that they will provide all forms of medical care; rather, they exist precisely to offer only certain procedures. He said they are meeting a need that is not met by medical centers. He said all facilities, including general medical centers and specialty hospitals, are flourishing, and he believes that competition makes all parties try harder to meet consumer needs.

Rep. Nonini stated that Northwest Specialty Hospital has received a five-star rating two years in a row for back surgeries, while Kootenai Medical Center received a three-star rating. He distributed a letter from Blue Cross to NSH regarding a patient’s claim for surgery that was performed at their facility, to illustrate how Blue Cross members are financially penalized when they choose a facility that does not have a Blue Cross contract. He noted that the Blue Cross letter also implies that the surgeon involved is guilty of directing his patient to a facility in which he has an ownership. Rep. Nonini reported that the doctor, Dr. Larsen, is not an owner of Northwest Specialty Hospital. A second letter was presented showing the reimbursement problem when Blue Cross does not contract with a facility. In this case, Northwest Specialty Hospital finally accepted a deeply discounted rate in order to accommodate a patient who wanted surgery performed at NSH.

Responding to a committee question, Rep. Nonini said at least 85% to 90% of insureds are covered under either traditional or PPO plans; managed care is a small segment of the industry. He reiterated that Blue Cross already contracts with NSH for both traditional and PPO coverage.

Rep. Rusche read the definition of “managed care” from Title 41, Idaho Code, and noted that basically all health care plans qualify under this definition as “managed care” plans. He said he is concerned that practice standards and quality requirements are excluded under this bill.

MOTION: **Rep. Henderson** moved to send **H 174** to the floor with a **DO PASS** recommendation.

Rep. Rusche said he has significant concerns about **H 174** aside from the situation with the North Idaho Health Network, concerns about costs and quality. He said community health networks such as North Idaho Health Network are a way to allow deliverers of care to help bridge gaps in the health care system and H 174 is a significant interference in that process.

SUBSTITUTE MOTION: **Rep. Rusche** offered a substitute motion to **HOLD H 174** in committee.

Rep. Bilbao declared that, according to House Rule 38, he may have a conflict of interest because he is a board member of a hospital and, as such, signs contracts with insurance companies. Since this may influence his vote, he announced his intention to abstain from voting on H 174.

Rep. Rusche declared that, although his wife is a physician who contracts with insurance companies, he does intend to vote.

VOTE ON SUBSTITUTE MOTION: **Chairman Black** called for a vote on the substitute motion to **HOLD H 174** in committee. A roll call vote was requested. **Substitute motion passed on a vote of 9-7**, with one abstention. **Voting in favor of the motion:** Reps. Collins, Crane, Mathews, Patrick, Gibbs, Palmer, Smith (30), Rusche, and Chairman Black. **Voting in opposition to the motion:** Reps. Henderson, Chadderdon, Bayer, Jarvis, Thompson, Durst and Cronin. Rep. Bilbao abstained from voting.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:50 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 23, 2009

TIME: 1:30 p.m.

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Rep. Thompson

GUESTS: John Watts, Idaho Occupational Therapy Association (IOTA); Farrell Lindley, IOTA; Linda Jackson, IOTA; Jack Lyman, Idaho Housing Alliance

Chairman Black called the meeting to order at 1:30 p.m.

H 261

John Watts, Veritas Advisors, representing the Idaho Occupational Therapy Association, presented **H 261**, which will amend the current codes by providing updated language and specific terminology relevant to the profession of occupational therapy. Mr. Watts noted that this bill is a new version of H 171, introduced earlier this session. He said it was decided, in consultation with all interested parties, that a new bill should be brought rather than trying to amend H 171.

Mr. Watts said extensive consultation was sought from such groups as the Idaho Hospital Association, the Idaho Medical Association, the Idaho Physical Therapy Association, the Idaho Psychological Association, and the Board of Medicine, as well as academics who teach and work in the occupational therapy school at Idaho State University. He is not aware of any opposition to H 261 from any of these groups.

The new language in H 261 comes from existing statutes in Idaho Code that regulate occupational therapy, from existing rules and regulations, and from the National Model Practice Act. Mr. Watts said this legislation makes allowance for a temporary license to be granted to an occupational therapist who comes to Idaho having been licensed in another state. It will also codify all licensing requirements in one place, which will make it easier for candidates to know what the requirements are.

One of the key provisions of this legislation is the transfer of authority from the Board of Medicine to the Bureau of Occupational Licenses; Mr. Watts said both boards have agreed to this change. He said the Bureau already governs licensing for a diverse group of health professionals, including social workers, counselors, dietitians, residential care administrators, physical therapists, and naturopathic physicians.

Mr. Watts pointed out the new definitions in the bill, which are taken from the model practice act as well as from existing rules. He stated the language on pages 4-5 has been negotiated and agreed upon by interested parties in

order to make the practice of occupational therapy much more definitive and clearer. The specific language on page 5, lines 8-17, was particularly important to all parties, and all have agreed to this wording.

Mr. Watts noted that H 261 spells out exemptions on page 5, a section which was important to the Idaho Medical Association. The language states that if one is licensed as a health service provider, nothing in this act shall interfere with one's ability to practice as one has been licensed.

The bill lists requirements for licensure in Idaho, specifies the examination process, and increases from two months to four months the period of supervised field work required for an occupational therapist assistant. Mr. Watts said the examination is a national exam and the testing is done online, in a central location. In case an applicant fails the exam, he or she can re-take the exam one more time during any given year. If the applicant fails a second time, or if more than one year elapses between testing, the applicant must start over with the application process.

Mr. Watts testified that H 261 defines continuing education requirements, in an effort to ensure professionalism for occupational therapists and quality care standards. It also states that licensing fees will be developed by rule. Mr. Watts said the current fees are \$120 for an initial license and \$65 for a renewal license. He said there are 548 licensees in Idaho, including 408 occupational therapists and 140 occupational therapy assistants.

Responding to committee questions, Mr. Watts said those who are currently practicing as occupational therapists are protected by the grandfather clause in H 261 on page 8, beginning on line 15. In response to a question about occupational therapists who may come to Idaho from another country, Mr. Watts said such a person would be able to receive a temporary license to practice, according to the provisions of this bill.

Asked whether there has been a problem in the field that H 261 is trying to address, Mr. Watts said there are no problems. Rather, the occupational therapy profession is supporting this bill for three reasons: First, it will create consistency with other states' regulations, through incorporation of the National Model Practices Act language. Second, it will place all relevant licensing and regulatory language in one place in the Code. Finally, it will move regulatory authority from the Board of Medicine to the Bureau of Occupational Licensing. This move will make occupational therapists self-governing.

Linda Jackson, Executive Director of the Idaho Occupational Therapy Association, was recognized to respond to a question about fees for inactive licenses and for license reinstatement. She said the fee for inactive licensees is \$95, fees for limited and temporary licenses are the same as regular licenses, and the fee for reinstatement is \$120. **Mr. Watts** noted that the fee balance remaining at the Board of Medicine that is dedicated to Occupational Therapy licensing will be shifted to the Bureau of Occupational Licensing.

Continuing his testimony on H 261, Mr. Watts said the bill includes conditions for suspending an occupational therapy license and spells out the grounds for a finding of unprofessional conduct. He noted that the Board will

have the authority to impose a wide variety of penalties as disciplinary actions. He said this language was taken from both existing rule and the National Model Practice Act. Hearing procedures are also included.

The Board's five members will be appointed by the Governor. H 261 spells out the requirements to be considered for appointment and stipulates varying terms as well as Board powers, which are similar to other boards.

Responding to committee questions, Mr. Watts said he presumes there is a positive fund balance for occupational therapy at the Board of Medicine, which will be transferred to the Bureau of Occupational Licenses. He stated again that the legislation is not arising out of any particular problem with the profession, but is instead an effort to assure that therapists have adequate education and experience in order to assure quality care.

Farrell Lindley, President of the Idaho Occupational Therapy Association and a practicing occupational therapist for the past seven years, testified in support of **H 261**. She stated the association began in 1974 and the profession's first practice act was written in 1988. Ms. Lindley said the practice act needs to be updated to coincide with the national model act. She noted that occupational therapy is now a master's level or doctoral level program; there are 324 occupational therapy schools in the United States, including the program at ISU. Accredited schools follow a national curriculum which includes education in neurology, biomechanics, kinesthesiology, and psychological components of therapy.

Ms. Lindley said occupational therapists pay for their own internships, as a part of their tuition. She gave a definition of occupational therapy, saying it is the science and study of how a person occupies his or her time to be able to engage in meaningful activities. Occupational therapy helps people of all ages and abilities to live their lives to the fullest. It enables people to achieve goals, maintain or rebuild independence, and perform daily activities to the best of their abilities.

In response to a question, Ms. Lindley said occupational therapists do not accept gifts from clients, and she noted that most employers also have a regulation against accepting gifts.

Rep. Rusche commended all parties who developed this legislation, saying he thinks it could provide a model for other other health professions and their professional conduct.

MOTION: **Rep. Bilbao** moved to send **H 261** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Bilbao will sponsor the bill on the floor.**

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: March 25, 2009

TIME: Upon Adjournment of the House

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Reps. Palmer and Durst

GUESTS: Suzanne Budge, Gary Van Hees, Kevin Keller, Tony DuPont

MOTION: **Chairman Black** called the meeting to order at 2:50 p.m.

Rep. Cronin moved to approve the minutes of March 17 as written; **motion carried on voice vote.** **Rep. Bilbao** moved to approve the minutes of March 23 as written; **motion carried on voice vote.**

Rep. Tom Trail introduced **Tony DuPont**, an entrepreneur and small businessman from Boise. Rep. Trail said Mr. DuPont holds a number of patents including one for lightweight bicycle cables and one for a variable transmission which could increase fuel efficiency by as much as 20%. Rep. Trail said the company could have tremendous economic implications for Idaho jobs.

Tony Dupont, owner of Io DuPont, presented information about his company, its current products, and its future prospects. He started the business in 2004 in his garage. Their first product was a synthetic fiber cable, Power Cordz, designed to replace steel control cables in bicycles and industrial applications. The fiber cable is stronger than steel, 75% lighter, and does not stretch, rust or corrode. Mr. DuPont said his sales have been mostly in international markets.

The second product developed by Io DuPont is a continuously variable transmission, which is used in bicycles but can also be used in automobiles or anything with a rotating shaft. Mr. DuPont said he has been working on this concept for about 20 years, trying to perfect a variable transmission. He showed the committee a plastic model of his transmission, for which he has filed patents in Asian and European markets.

Mr. DuPont explained the advantage of his transmission, saying it saves energy at startup because, unlike traditional transmissions, it does not have to be restarted from zero speed. He said he has a letter of intent from a company that intends to install the variable transmission on 250,000 bikes and further develop it for use in automobiles. Mr. DuPont said this product could help reduce auto pollution in heavily populated countries like China and India.

In response to committee questions, Mr. DuPont said the tensile strength of Power Cordz is over 1,000 pounds. The cord can be manufactured in any diameter. He said he has received an inquiry from the Department of Defense interested in 30,000 cables. There are about 15 different products built around the concept of the Power Cordz, and Mr. DuPont said it is his opinion that synthetic fiber is the future of control cables.

Mr. DuPont said his desire is to keep his company in Idaho, but he needs to attract capital in order to grow. He said most of his production, printing and packaging is currently done in the state. He is working to obtain intellectual property rights in a number of countries around the world but has not been able to pursue international investors yet.

Mr. DuPont said a portion of the federal stimulus money should be used to create more jobs, which will in turn create more wealth. This could be done through education and research and development grants. He said most universities aren't capitalizing on their intellectual property. Another problem he has encountered when partnering with universities is that they want to control the intellectual property that his company has spent many years developing.

Grant writing has been a difficult endeavor for Mr. DuPont's company because often the cost of hiring a grant writer is a large percentage of the total grant award. He said he hopes to team up with universities who have grant-writing expertise and can aid him in that process. He has met with both Boise State University and University of Idaho thus far.

Mr. DuPont said his company does employ senior design students, who like to work on real-world problems. These students could potentially be hired permanently by the company, which would be beneficial to both the company and the individual design students.

Mr. DuPont explained his difficulty in getting sufficient backing for bank loans, saying the banks require a personal loan guarantee as well as inventory to secure the loans. He said it is his understanding that even the federal Small Business Association loans require this double backing. There is also a difficulty raising money from the general public because of securities regulations. Mr. DuPont said he would like to be able to solicit from the public so they would have the opportunity to invest in his company.

During committee discussion, one recommendation made to Mr. DuPont was to visit personnel at the Idaho Department of Finance, who could advise him on the legal and securities requirements of selling stock in his company. He was also told that he would need a competently written business plan. Rep. Henderson noted that he is aware of people who will write grant applications at no charge, and those grant writers are constantly monitoring Department of Defense, Department of Labor, and other federal departments. He said working with universities is problematic because they are great developers of ideas but lousy marketers. He also noted that virtually all grant programs are based on the employment potential of the proposal.

H 258

Rep. Gibbs presented **H 258**, a bill that creates a limited specialty license for HVAC specialty contractors. He recalled previous testimony given to the

committee about the problem with liquefied petroleum gas installers being prohibited from performing installations inside houses. This bill will allow them to acquire a specialty license to install heaters, refrigerators, and similar types of hardware. Rep. Gibbs said this is primarily a rural Idaho problem, where natural gas is not available. This need is not, however, limited to strictly agricultural needs. In fact, according to Rep. Gibbs, Tamarack Resort and Bear Lake are based on propane.

Suzanne Budge, appearing on behalf of the Rocky Mountain Propane Association, testified in favor of **H 258**. She said this bill represents the simplest approach to solving the problem of HVAC limited specialty licensing. H 258 adds a fourth specialty license, for limited heating contractors and journeymen, to the three already existing in the HVAC Bureau. These licenses will rely on the existing training program that HVAC already has set up, but will require only two years of the four-year program, including specific skills necessary to the trade, plus a two-year apprenticeship. Ms. Budge said these requirements are more stringent than other specialty licenses. The fees will be consistent with existing fees in the HVAC code.

MOTION: **Rep. Thompson** moved to send **H 258** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Gibbs** will sponsor the bill on the floor.

ADJOURN: **Chairman Black** announced that the Business Committee's future meetings would be held subject to the call of the chairman.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: April 3, 2009

TIME: Upon Adjournment of the House

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:**

GUESTS: Gavin Gee, Department of Finance;

Chairman Black called the meeting to order at 12:55 p.m.

MOTION: **Rep. Cronin** moved to approve the minutes of March 25 as written; **motion carried on voice vote.**

S 1151 **Gavin Gee**, Director of the Department of Finance, presented **S 1151**. Thanks to Rep. Rusche and Sen. Keough, co-sponsors of the legislation. Generated last fall, following a forum in Sandpoint on payday lending, incl legislators, lenders, community groups, and dept of finance.

Addresses problem of unlicensed lenders, primarily on the internet. This will make loans from unlicensed and unregulated lenders void. Creates a private right of action, grants dept authority to get restitution, also to issue cease-and-desist orders.

Most important: will provide incentive to be licensed in Idaho (lenders), which will provide onsumer protections ...

Have worked with industry, no objection. Bill passed Senate with no objections.

Q Durst: If a lender is unlicensed and sells loans in Idaho, and constituent has one that he doesn't pay back, is there federal law that would supercede, that would allow the lender to seek redress and repayment?

A not to his knowledge. Fed govt has left regulation of payday lending, with exception of military, up to the states to regulate. Idaho law would govern payday lending in Idaho.

Q If someone identifies payday lenders that are unlicensed, and then takes loans out with no intention to repay. Is that fraudulent? Or just

A we don't do criminal prosecution. This is designed to provide incentive to be licensed. Industry talks to each other, they will know about this law.

Q Gibbs: Rusche bill - we held.

Rusche spoke to this bill: This language is identical to the first of three sections of Rusche bill. Sen. Keough and I worked with Dept on this language. My bill also included consumer counseling services, and a way

to transfer debts into a longer-term payment program. That part was problematic. I heartily endorse this bill.

Black: This issue before us for a number of years. I hear from payday lenders – they are in support of this. Bad actors hurt the industry ...

MOTION:

Rep. Rusche moved to send S 1151 to the floor with a DO PASS recommendation; motion carried on voice vote. Rep. Rusche will sponsor the bill on the floor.

Thanks to Andres Figueroa ... appreciate his work,

Andres shared his future plans ... attend College of Idaho - major in chemistry and pre-med, go to medical school, one day become a neurosurgeon.

Collins: has substantial scholarships ...

Black: presented a pen made from the historic Harrison tree ... using wood to make mementos. Chadderdon: also best-dressed page.

Future meetings at call of the chair.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: April 21, 2009

TIME: 1:30 P.M. or Upon Afternoon Adjournment

PLACE: Room 228

MEMBERS: Chairman Black, Vice Chairman Henderson, Representatives Collins, Bilbao, Chadderdon, Crane, Mathews, Patrick, Bayer, Gibbs, Jarvis, Palmer, Thompson, Smith (30), Rusche, Durst, Cronin

**ABSENT/
EXCUSED:** Rep. Collins

GUESTS: Sen. John Goedde, Jim Alcorn, State Insurance Fund

MOTION: Rep. Bilbao moved to approve the minutes of April 3 as written; motion carried on voice vote.

Chairman Black called the meeting to order at 1:30 p.m.

S 1166

Sen. John Goedde presented **S 1166**, which deals with an issue at the State Insurance Fund arising out of a court case, Farber v. State Insurance Fund. Sen. Goedde disclosed that he is a member of the Board of Directors of the State Insurance Fund and was named in that lawsuit but was never deposed. He also noted that he is an insurance agent who earns commission income by selling policies offered by the Fund, and that his agency has its worker's compensation policy through the State Insurance Fund, which would make him eligible for dividends paid by the Fund.

Sen. Goedde explained that the State Insurance Fund was established in 1917, and Idaho Code Section 72-915 regulates how the Fund handles dividend payments. In 1998 the House passed legislation that makes the Fund subject to regulation under Title 41 of Idaho Code and requires it to operate as an efficient insurance company. He said the Fund operates as a mutual insurer.

The recent Supreme Court decision in Farber v. State Insurance Fund states that the Fund must distribute dividends on a pro-rata basis, based on premium size, regardless of other factors such as loss ratio or even a consistently high loss ratio year after year. Sen. Goedde said this does not make sense for the state or the State Insurance Fund.

S 1166 will retroactively repeal Idaho Code 72-915, back to 2003. The amendment to the bill excludes the Farber case, meaning that any liability that the State Insurance Fund has as a result of this case will continue. The amount of the state's liability is estimated to be between \$5 million and \$13 million.

Sen. Goedde explained that there are certain economies of scale with regard

to insurance policies, which makes it reasonable to give some economic consideration to large policies over small policies. He said the State Insurance Fund is the only company that offers small policies with premiums as low as \$150, so it is vitally important for small businesses that the viability of the Fund be maintained. This legislation will help assure that viability. Sen. Goedde said the bill's amendment with the cooperation of the Fund and other interested parties, and has their support.

Responding to committee questions, Sen. Goedde said the State Insurance Fund sets premiums based on rates suggested by the National Council on Compensation Insurance. The premiums should cover all costs involved, and they anticipate the use of dividends and deviations to adjust the rates. Sen. Goedde said the Fund operates more efficiently than the NCCI assumes in its suggested credits. After all administrative and claims expenses are paid, any lump sum left over is applied to dividends. The Fund also pays premium tax, like other insurance companies in the state. However, the State Insurance Fund is not a member of the Guaranty Association.

In response to a further question, Sen. Goedde said the breakeven point for profitability of policies with the State Insurance Fund is \$1,500; any policies smaller than that actually cost the Fund money to administer.

MOTION: **Rep. Patrick** moved to send **S 1166a** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Patrick** will sponsor the bill on the floor. **Rep. Durst** requested that he be recorded as voting against the motion.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:55 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary