

House Commerce & Human Resources Committee

Minutes
2010



MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 19, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representatives Marriott, Lake, Higgins

GUESTS: Don Drum, Public Employees Retirement System of Idaho (PERSI); Joanna Guilfooy, Senior Attorney General; Michael Savoie, Department of Human Resources; Jennifer Hannah; Joie McGarvin, Westerberg and Associates; David Hahn, Division of Financial Management; Maribeth Connell, AARP

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

**DOCKET NO
59-0103-0901:** **Don Drum**, Executive Director of the Public Employee Retirement System of Idaho (PERSI), presented **Docket No. 59-0103-0901**. This rule was adopted and is now pending review for final approval. The docket provides an additional employee contribution of .04% applicable to public safety officers, as defined in Section 59-1352A, Idaho Code. This provides for a one time \$100,000 disability benefit for public safety officers and provides that the benefit shall be funded by public safety officer contributions (not employer contributions). Existing rule 102 would be renumbered as 103. It is estimated that this will cost public safety officers approximately \$20 per year.

In response to questions, Mr. Drum stated that only those disabilities occurring in the line of duty would be covered under this benefit, and the disability must be determined to be permanent. He stated he has had no negative feedback on this rule from any peace officer.

MOTION: **Representative Takasugi** moved to **approve Docket No. 59-0103-0901**. **Representative Trail** **seconded** the motion. **Motion carried on a voice vote.**

**DOCKET NO
59-0105-0901:** **Don Drum**, Executive Director of the Public Employee Retirement System of Idaho (PERSI), presented **Docket No. 59-0105-0901**. This amends rule 103 to add a new Subsection 103.04 regarding interest applicable to waiting period payments. It states that a repayment amount will be determined that will be the sum of contributions that would have been made plus regular interest from December 31, 1975 until the date of first payment. The repayment amount will be amortized over the payment period at the reinstatement rate in effect on the day of the first periodic payment. It does not provide a substantive change, but seeks to provide clarification.

In response to questions, Mr. Drum stated that this rule does not apply to purchase of service. He stated there are no proposed changes for purchase

of service at this time. Regarding purchase of service, the legislature passed a statute allowing employers to purchase service for their employees. Rules do not allow the purchase of service for employees unless they are 90 day away from retirement. The rules and statute do seem to conflict. Statutory change would be required in order to address the issue, however, Mr. Drum believes that PERSI may not be the appropriate body to address the issue at this time.

MOTION: **Representative Ringo** moved to **approve Docket 59-0105-0901**. **Representative Takasugi** seconded the motion.

In discussion, **Representative Pasley-Stuart** stated that a new statute or bill needs to be written to address the issue of purchase of service, which is not part of this docket.

Motion carried on a voice vote.

DOCKET NO 59-0106-0902: **Don Drum**, Executive Director of the Public Employee Retirement System of Idaho (PERSI), presented **Docket No. 59-0106-0902**. This amends Rules 553, 554, and 576 to remove the requirement for "group" insurance related to retiree insurance for which unused sick leave dollars can be used to pay premiums. The remainder of the docket makes technical corrections.

MOTION: **Representative Trail** moved to **approve Docket No. 59-0106-0902**. **Representative Pasley-Stuart** seconded the motion. **The motion carried on a voice vote.**

DOCKET NO 59-0106-0901: **Don Drum**, Executive Director of the Public Employee Retirement System of Idaho (PERSI), presented **Docket No. 59-0106-0901**, a temporary rule to delay scheduled increase in contribution rates to the unused sick leave fund by public schools. Actuarial valuation indicates the currently scheduled increases are not necessary to adequately fund the benefits provided by the schools' unused sick leave fund.

MOTION: **Representative Ringo** moved to **approve Docket No. 59-0106-0901**. **Representative Pasley-Stuart** seconded the motion. **The motion carried on a voice vote.**

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

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 21, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representative Neil Anderson (sitting in for Vice Chairman Marriott), Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Vice Chairman Marriott

GUESTS: Bob Fick, Department of Labor; Michael Johnson, Department of Labor; Josh McKenna, Department of Labor; Cindy Hedge, AFL/CIO; Shelby Kerns, Division of Financial Management; Donna Weast, Division of Human Resources

The meeting was called to order at 1:34 p.m. by Chairman Schaefer.

MOTION: **Representative Pasley-Stuart** moved to **approve the minutes of January 19, 2010** as submitted. **Motion carried on a voice vote.**

DOCKET NO. 09-0130-0901: **Bob Fick**, of the Department of Labor, presented **Docket No. 09-0130-0901**. This docket establishes that in the case of deceased claimants, benefits are the property of the claimant's estate rather than stating that benefits are payable to the administrator, who may include heirs other than a surviving spouse or dependent children.

MOTION: **Representative Thayn** moved to **approve Docket No. 09-0130-0901**. **Motion carried on a voice vote.**

DOCKET NO. 09-0130-0902: **Bob Fick**, of the Department of Labor, presented **Docket No. 09-0130-0902**. In the case of unemployment claims, the rule is changed to provide that under certain circumstances, a claimant may seek only part time work. This change reflects the statutory language found in the newly enacted Subsection (c) of Idaho Code 72-1366(4). This Subsection provides that a claimant who establishes that a majority of the weeks worked in their base period were less than full time may be eligible for unemployment insurance benefits.

There is no impact to the State General Fund resulting from this rule. The infusion of Federal Reed Act money into the State Unemployment Insurance Trust Fund will minimize the amount of money the state will have to borrow when the fund is depleted. This will also impact employers by lessening the amount of employment taxes imposed for years 2010 and 2011. It is estimated that this law change will have a cost to the Unemployment Insurance Trust Fund of \$500,000 per year.

In response to questions, Mr. Fick stated that this rule does not open any new benefits, but simply makes the rule conform to existing law. The original

estimate of the number of people who would benefit from this was less than 1% of all claimants. That is probably somewhat higher now due to the state of the economy. Benefit calculations are based on the amount of wages earned, not on hours worked.

MOTION: **Representative Lake** moved to **approve Docket No. 09-0130-0902**. **Chairman Schaefer** seconded the motion. **Motion carried on a voice vote.**

DOCKET NO. 09-0135-0901: **Bob Fick**, of the Department of Labor, presented **Docket No. 09-0135-0901**. IDAPA 09.01.35.241 is being changed to delete from Subsection (c) and move to Subsection (d), with minor changes, the following: "In order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages."

MOTION: **Representative Higgins** moved to **approve Docket No. 09-0135-0901**. **Motion carried on a voice vote.**

DOCKET NO. 09-0135-0902: **Bob Fick**, of the Department of Labor, presented **Docket No. 09-0135-0902**. This docket has to do with a section of rule regarding the correct reporting of employee wages. This rule simply inserts the word "paid" into an existing section of rule to accurately reflect that wages must be paid for the rule to apply.

MOTION: **Representative Takasugi** moved to **approve Docket No. 09-0135-0902**. **Motion carried on a voice vote.**

DOCKET NO. 09-0301-0901: **Bob Fick**, of the Department of Labor, presented **Docket No. 09-0301-0901**. IDAPA 09.03.01 is being repealed in its entirety. The Broadband Development Matching Fund Program is no longer funded by the legislature, and the Governor has found that the repeal of the rule represents a cost saving benefit to the public and the State of Idaho.

In response to questions, Mr. Fick stated that this rule has been in effect and the final disbursement was made after the rule began.

MOTION: **Representative Pasley-Stuart** moved to **approve Docket No. 09-0301-0901**. **Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:13 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 25, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representative Trail

GUESTS: Dennis Porter, Department of Commerce; Michael Savoie, Department of Human Resources; Karen Ballard, Division of Tourism, Department of Commerce; Renea Nelson, Department of Commerce; Tina Caviness, Department of Commerce; Cathy Bourner, Department of Commerce; Emily Anderson, Office of the Governor; Dennis Stevenson, Department of Administration; Anne Chambers, Idaho RV Campgrounds Association; Bobbie Patterson, Boise Convention and Visitors Bureau; M. Alex Neiwirth, Idaho Association of Government Employees

The meeting was called to order at 1:30 p.m. by Chairman Schaefer.

DOCKET NO. 28-0201-0901: **Dennis Porter**, of the Department of Commerce, presented **Docket No. 28-0201-0901**, related to the Idaho Community Development Block Grant Program. This proposed rule will increase flexibility in providing access to federal funding for city and county projects. It was adopted by the agency and is pending review by the 2010 Legislature for final approval. The complete text of the proposed rule was published on the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 108 through 122.

In response to questions, Mr. Porter stated that it is his responsibility to remain aware of current changes. An annual action plan is completed for the program, and that plan is made public through two announcements each year. Currently there have been two sets of rules, federal and state. The Code of Federal Regulations (CFR) dictates all guidelines. Each time it is changed, individual state regulations must also be changed. This rule attempts to streamline and make compatible those two sets of regulations. Raising the dollar limit that is currently listed in rule will allow cities and counties to put in place the necessary services for projects that have already begun, as well as future projects. There is possibly one current project that would be negatively impacted if this rule is rejected.

Mr. Porter yielded to **Dennis Stevenson**, who stated that part of the rule can be rejected without rejecting the entire rule. He stated that if the criteria is there to adopt a temporary rule, it can be adopted during a legislative session.

MOTION: **Representative Lake** moved to **approve Docket No. 28-0201-0901**. On discussion, **Representative Higgins** stated that the people who actually do the work are the ones who have to interpret the code. This proposed rule will

make it easier for them to do their jobs and should save money. **On a role call vote, motion passed 8:2:1.** Voting in favor of the motion were Representatives Schaefer, Marriott, Lake, Thayn, Takasugi, Ringo, Pasley-Stuart, and Higgins. Voting against the motion were Representatives Hartgen and Simpson. Representative Trail was absent and excused.

SUBSTITUTE MOTION:

Representative Hartgen moved to **reject Docket No. 28-0201-0901.** On discussion, **Representative Thayn** stated that there is the option of striking part of the rule. **On a role call vote, motion failed 5:5:1.** Voting in favor of the motion were Representatives Schaefer, Marriott, Thayn, Hartgen, and Simpson. Voting against the motion were Representatives Lake, Takasugi, Ringo, Pasley-Stuart, and Higgins. Representative Trail was absent and excused.

AMENDED SUBSTITUTE MOTION:

Representative Thayn moved to **approve the rule with the exception of Subsections 171 through 204.** Speaking to his motion, he stated that the House and Senate address the rules independently of one another. If the House rejects part of the rule, the Senate will still have the entire rule to review and decide upon. **On a role call vote, motion failed 2:8:1.** Voting in favor of the motion were Representatives Marriott and Thayn. Voting against the motion were Representatives Schaefer, Lake, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, and Higgins. Representative Trail was absent and excused.

DOCKET NO. 28-0203-0901:

Karen Ballard, of the Division of Tourism in the Department of Commerce, presented **Docket No. 28-0203-0901.** This chapter of rules is being repealed so that it can be rewritten in order to provide updates to 25 years of change, and to allow the Idaho Travel Council the flexibility to advise and execute the travel grant program, which will confer a benefit on non-profit organizations with travel and convention programs applying for an Idaho Travel Council Regional Travel and Convention Promotion grant.

In response to questions, Ms. Ballard stated that she believes there will be a 4 to 5 page reduction of text in the rewritten version. Certain items have been relocated to the guidelines, rather than continuing to remain in rule. The potential for conflict of interest has always been in rule. It has been made more obvious in the rewrite. The old rules are available online as a link.

Ms. Ballard yielded to **Dennis Stevenson**, who stated that the presentation of rules to be repealed and rewritten must consider efficiency and cost effectiveness.

MOTION:

Representative Takasugi moved to **approve Docket 28-0203-0901.**

On discussion, **Representative Hartgen** stated that it would be good policy to see a side-by-side comparison of the rules that are being repealed with those that are being rewritten. **Representative Takasugi** stated that the oversight of a committee ensures that the previous rule was carefully examined, and that he is glad to see Ms. Ballard has taken on the task of rewriting the rule so that it would be better organized and easier to understand. **Representative Pasley-Stuart** stated that she agrees with Representative Takasugi and supports the motion. **Representative Simpson** stated that he believes Representative Hartgen has a good point.

As a precedent he cannot offer approval without seeing the previous data. He will vote no on the motion. **Chairman Schaefer** agreed that he is not fond of accepting a rule when he does not have all the information in front of him.

Motion carried on a voice vote.

**DOCKET NO.
28-0203-0902:**

Karen Ballard, of the Division of Tourism in the Department of Commerce, presented **Docket No. 28-0203-0902**. This pending rule is a chapter rewrite. Language was changed in two sections of the rule. The phrase “contract period” more accurately describes the duration of the grant cycle; the word “obligated” was deleted because it doesn’t describe the nature of the grant process.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made according to the pending rule.

MOTION:

Representative Thayne moved to **approve Docket No. 28-0203-0902**.
Motion carried on a voice vote.

ADJOURN:

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

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: January 27, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representatives Higgins, Thayn

GUESTS: Steve Keys, Division of Building Safety (DBS); Joe Webber, Division of Human Resources; Zach Harge, Capitol West; Ed Hawley, Administrative Rules; Jerry Deckard, Associated Logging Contractors; Woody Richards, Associated Loggers Exchange; Galen Hamilton, Idaho Logging Safety Program, DBS; Cliff Osborne, DBS; Roger Seiber, Capitol West; John Littel, Northwest Carpenters; Drew Thomas, Risch and Pisca; Jack Lyman, Idaho Mining Association

The meeting was called to order at 1:33 p.m. by Chairman Schaefer.

MOTION: **Representative Pasley-Stuart** moved to **approve the minutes of January 21, 2010**, as written. **Motion carried on a voice vote.**

MOTION: **Representative Pasley-Stuart** moved to **approve the minutes of January 25, 2010**, as written. **Motion carried on a voice vote.**

**DOCKET NO.
17-0801-0901:** **Steve Keys**, Deputy Administrator of the **Division of Building Safety**, presented **Docket No. 17-0801-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements regarding logging signs, and makes technical corrections. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 42-46. Under the new rule, employers would be required to post "logging ahead" warning signs at the entrances for active logging jobs, and would also be required to furnish each crew member with a Company Emergency Rescue Plan.

In response to questions, Mr. Keys stated that the word "crew" in the text refers to the workforce on a particular job site.

Mr. Keys deferred to **Galen Hamilton**, Manager for the Idaho Logging Safety Program, to answer further questions. Mr. Hamilton stated that an Emergency Rescue Plan contains the latitude and longitude of a specific job location, as well as emergency procedures that would take place should an accident occur. He stated that as the industry changes, rules and processes must be updated.

He also stated that the requirement for employees to learn first aid includes general first aid and CPR,. This way, anyone on a job site could handle an

emergency. Logging companies are in support of this change, and currently close to 100% of loggers have already been trained in first aid and CPR.

MOTION: **Representative Pasley-Stuart** moved to **approve Docket No. 17-0801-0901. Motion carried on a voice vote.**

DOCKET NO. 17-0802-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0802-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements regarding first aid transportation, first aid training requirements, and contents of first aid kits, It also clarifies shoe and life jacket size requirements, and makes technical corrections. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 47-53. Under the new rule, every employer shall obtain a longitude and latitude for each specific job and furnish that information to the crew in case emergency evacuation is necessary. All woods workers shall be required to complete first aid training. In previous rule, only those in charge of workers were required to have first aid training. Under the new rule, first aid kits must be kept at each work site where trees are being felled and at each active landing, and in each employee transport vehicle.

In response to questions, Mr. Keys stated that these dockets have not been updated since 1997. The proposed rules updates were made by a group of industry professionals. Logging companies would be required to provide GPS locations of work crews in order to coordinate emergency responses. Logging contractors are able to request the dispatch of medical helicopters.

MOTION: **Representative Takasugi** moved to **approve Docket No. 17-0802-0901. Motion carried on a voice vote.**

DOCKET NO. 17-0803-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0803-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements relating to crimping of fused detonator caps. It states that employees may not use their teeth. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 54 and 55.

MOTION: **Representative Simpson** moved to **approve Docket No. 17-0803-0901. Motion carried on a voice vote.**

DOCKET NO. 17-0805-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0805-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements regarding signaling of dangerous conditions. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 56 and 57. The rule identifies which worker will be responsible to give signals.

In response to questions, Mr. Keys deferred to **Galen Hamilton**, Manager for the Idaho Logging Safety Program, who stated that the word "sending" in the text is correct.

MOTION: **Representative Ringo** moved to **approve Docket No. 17-0805-0901. Motion carried on a voice vote.**

DOCKET NO. 17-0808-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0808-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements regarding first aid training by logging cutters, and back-cuts of timber. It also makes technical corrections to properly identify illustrations and undercuts. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 58 - 63. The new rule would require all cutters to have a current first aid card. It states that back-cuts shall be above the level of the upper horizontal cut of the undercut.

In response to questions, Mr. Keys stated that this change brings the rule into conformity with other existing regulations.

MOTION: **Representative Lake** moved to **approve Docket No. 17-0808-0901**. **Motion carried on a voice vote.**

DOCKET NO. 17-0809-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0809-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements regarding rope clip fastening. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 64 - 67. It changes the words "on wrong" to "rigged improperly".

MOTION: **Representative Pasley-Stuart** moved to **approve Docket No. 17-0809-0901**. **Motion carried on a voice vote.**

17-0810-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0810-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements relating to seatbelts for logging construction equipment. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 68 and 69. The rule states that seatbelts shall be used when operating any machine equipped with Roll Over Protection Structure (ROPS), Falling Object Protection Structure (FOPS), or overhead guards.

MOTION: **Representative Takasugi** moved to **approve Docket No. 17-0810-0901**. **Motion carried on a voice vote.**

DOCKET NO. 17-0816-0901: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 17-0816-0901**. This docket updates the Logging Safety Standards to meet OSHA's current requirements regarding first aid training, and to clarify reporting of injuries and fatalities, management responsibilities, record keeping, and establishment of a safety committee. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 70 - 76. Under the new rule, employers would be responsible for reporting all industrial lost time injuries to the Industrial Commission within forty-eight hours. All fatalities would be immediately reported to the Sheriff or Coroner, the Industrial Commission, and OSHA.

In response to questions, Mr. Keys stated that employers report injuries with a First Report of Injury form, which is a standard form. The notification rule brings the logging industry's rules into conformance with other standards of the Industrial Commission. This section of rule is a recommended safety

program but is not mandatory. Federal agencies set forth mandated safety regulations.

Also in response to questions, Mr. Keys deferred to **Galen Hamilton**, Manager for the Idaho Logging Safety Program, who stated that at the front of standard books, the employee's responsibility for his own safety is discussed.

MOTION: **Representative Lake** moved to **approve Docket No. 17-0816-0901. Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:11 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 1, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Chairman Schaefer, Representative Trail

GUESTS: Patti Vaughn, Industrial Commission; Scott McDougall, Industrial Commission; Megan Holbrook, Industrial Commission; Mindy Montgomery, Industrial Commission; Joanna Guilfry, PERSI; Tom Lindbaugh, Industrial Commission; Dave Whaley, Idaho AFL/CIO; Michael Savoie, Division of Human Resources (DHR); Donna Weast, DHR; Ed Lawley, Administrative Rules; M. Alex Neiwirth, Idaho Association of Government Employees; Daniel Wolf, Service Employees International Union; Mike Walker, Professional Firefighters of Idaho; Andrew Crisp, Boise Weekly

The meeting was called to order at 1:33 p.m. by Vice Chairman Marriott.

MOTION: **Representative Higgins** moved to **approve the minutes of January 27, 2010**, as written. **Motion carried on a voice vote.**

DOCKET NO. 17-0208-0902: **Scott McDougall**, of the Industrial Commission, presented **Docket No. 17-0208-0902**. The existence and status of outstanding medical bills remaining due after approval of a lump sum settlement has proved to be problematic. Some claimants are not aware that they are liable to pay outstanding medical bills to third party payors. This creates a hardship on the claimants and the providers. The change of rule would require attorneys to provide an itemization of the amount and disposition of any and all medical bills or medical obligations to third party payors that remain due after approval of a lump sum settlement. The information would be required in the Attorney Fee Memorandum that is currently submitted with every lump sum settlement.

In response to questions, Mr. McDougall stated he does recall a specific incident that would have been affected by this rule. In that case the claimant had representation. If a claimant has outstanding medical expenses, the claimant must be counseled appropriately about the ramifications of having those expenses remain outstanding.

MOTION: **Representative Pasley-Stuart** moved to **approve Docket No. 17-0208-0902**. **Motion carried on a voice vote.**

DOCKET NO. 17-0208-0903: **Patti Vaughn**, Medical Fee Schedule Analyst of the Industrial Commission, presented **Docket No. 17-0208-0903**. The temporary rule containing physician fee updates that became effective on July 1, 2009, as required by Idaho Code, will no longer be in effect upon sine die adjournment of the 2010 legislative session. This proposed rule provides the same fee schedule

updates as the previous temporary rule, but allows the legislature to approve conversion factors going forward that have been updated in accordance with Idaho Code.

In response to questions, Ms. Vaughn stated that these conversion factors reflect the increase that has been in effect for a year and a half. Concerns have been raised by family practice physicians. Orthopedic surgeons have not provided recent comments. The medical community has not voiced concerns to the Industrial Commission recently.

MOTION: **Representative Takasugi** moved to **approve Docket No. 17-0208-0903. Motion carried on a voice vote.**

RS 19303: **Representative Grant Burgoyne** presented **RS 19303**. This clarifies that PERSI members on disability retirement can return to work and, if unsuccessful, they can resume their disability retirement. Certain requirements must be met including providing PERSI's executive director with advance written notice of return to work, terminating the attempted return to work within 150 days from the date of that notice, and providing medical records and/or submitting to a medical exam, at the member's expense, if requested by PERSI's board of directors. If the PERSI board determines that the member could not successfully return to work because of the same disability that was the basis for his or her original disability retirement, the disability retirement would resume. Representative Burgoyne stated that PERSI does not take a position on this type of legislation, however, they do not object.

In response to questions, Representative Burgoyne stated that when a person reaches age 65, he or she transitions to service retirement instead of disability retirement. Representative Burgoyne is not aware of the laws in other states regarding retirement plans. The intent here is to ensure that those who are receiving PERSI's disability retirement have some incentive to attempt to return to work. According to RS 19303, if a person has unsuccessfully returned to work and wishes to resume disability retirement, he must demonstrate that he is totally and permanently disabled the same way he demonstrated the disability the first time through. The standard and requirements for obtaining PERSI disability retirement do not change. Representative Burgoyne believes that every decision made by the PERSI board is reviewable in some form, but not under the Americans with Disabilities Act.

MOTION: **Representative Lake** moved to introduce **RS 19303. Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:59 p.m.

Representative Jim Marriott
Vice Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 3, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representatives Ringo, Lake

GUESTS: Judy Brown, sitting in for Representative Ringo; Don Dietrich, Department of Commerce; Bibiana Nertney, Department of Commerce; Mike Rotchford, Department of Commerce; Tom Dale, Mayor, City of Nampa; Megan Holbrook, Industrial Commission; Mindy Montgomery, Industrial Commission; Don Robbins, Industrial Commission; Scott McDougall, Industrial Commission; Tom Limbaugh, Industrial Commission; Michael Savoie, Department of Human Resources; Ed Hawley, Administrative Rules; Emily Anderson, Office of the Governor

The meeting was called to order at 1:33 p.m. by Chairman Schaefer.

MOTION: **Representative Higgins** moved to **approve the minutes of February 1, 2010**, as written. **Motion carried on a voice vote.**

PRESENTATION: **Don Dietrich**, Director of the Department of Commerce, gave an informational presentation titled "**Supporting Idaho Through Air Power, Idaho F35**". The F35 is the replacement aircraft for the A10, F15, and the 390. It is the newest joint strike fighter, and is both supersonic and stealth. It will serve the Air Force, Navy, Marine Corps, and eight cooperative international partners. It requires a special skill set to service and manufacture. There are three versions of the plane, the F35A, F35B, and F35C. About 80% of parts will be interchangeable between the three versions. Currently, Mountain Home Air Force Base is being looked at as an Operational Mission location for the F35, and Gowen Field in Boise is being considered as a Training Mission site. The goal is to have 144 total new airframes, making up six squadrons.

The introduction of the F35 aircraft into Idaho could potentially result in and maintain 3,000 jobs and have a \$1 billion positive economic impact on Idaho. The mission would ensure the economic vitality of Idaho's air bases for forty years. Current military airspace in Idaho would be expanded for the F35s. The first sites selected for the F35 project will be announced in August, 2010, and if Idaho is not selected to participate at that time, there will be other upcoming opportunities to be considered as a location for F35s. Currently there is a tremendous amount of support for the proposed projects, with approximately 200 postcards/letters each day expressing a desire to have Idaho become a home for these squadrons, and with the Governor naming February "F35 Month" in Idaho.

In response to questions, Mr. Dietrich stated that he has spoken with Lockheed Martin about bringing a simulator to Idaho. It could be available as quickly as February 18, 2010, at Gowen Field. The proposed airspace expansions were requested prior to the F35 being proposed. The expansions would not encroach on current no fly zones over Tribal Lands. Mr. Dietrich is not aware of any complaints about the F35 coming to Idaho. Other states are being considered as homes for the F35, and do pose competition for Idaho. Mr. Dietrich does not know of legislative changes that would be necessary, should the F35 come to Idaho. The idea of the legislature giving priority to base expansions could provide the federal government with an even better idea of Idaho's seriousness about supporting and hosting F35 squadrons, however, Mr. Dietrich is not certain that it is necessary.

**DOCKET NO.
17-0203-0901:**

Scott McDougall, Manager of Claims and Benefits for the Industrial Commission, presented **Docket No. 17-0203-0901**. The proposed rule changes reporting and assessment dates to coincide with 72-327, Idaho Code. It requires self-insured employers to maintain a resident claims adjuster located within Idaho, and licensed by the Department of Insurance, to alleviate the need for employees with no expertise or license to service claims. It also requires date stamping of documents when received, to promote prompt adjusting and to determine where delays in processing occur. Because the adjuster assigned to a particular claim can change during the claims process, prompt and accurate reporting of each adjuster for each policyholder is required. This will have no impact on about 80% of the sureties operating in Idaho. There is also updated language throughout the rule.

In response to questions, Mr. McDougall stated that date stamping would provide accuracy in audits performed by the Industrial Commission, insurance companies, and adjusters.

MOTION:

Representative Trail moved to **approve Docket No. 17-0203-0901. Motion carried on a voice vote.**

ADJOURN:

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

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 9, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:**

GUESTS: Al Caine, Division of Building Safety (DBS); Joe Webber, Department of Human Resources; Gary Barnes, DBS; Cindy Hedge, AFL/CIO; Mindy Montgomery, Industrial Commission (IIC); Tom Limbaugh, IIC; George Gutierrez, IIC; Megan Holbrook, IIC; John McAllister, Department of Labor; Bob Fick, Department of Labor; Roger Madsen, Department of Labor; Carmen Achabal, Department of Financial Management (DFM); Steven Gabrielsen, DFM; Bill Hatch, DBS; Kirk Weiskircher, DBS; Janice Foster, DBS; Kelly Pearce, DBS; Steve Keys, DBS

The meeting was called to order at 1:33 p.m. by Chairman Schaefer.

MOTION: **Representative Higgins** moved to **approve the minutes of February 3, 2010**, as written. **Motion carried on a voice vote.**

DOCKET NOS.
17-0601-0901
17-0602-0901
17-0603-0901
17-0604-0901
17-0605-0901:

Al Caine, of the Division of Building Safety, presented **Docket Nos. 17-0601-0901, 17-0602-0901, 17-0603-0901, 17-0604-0901, and 17-0605-0901**. These dockets are chapter repeals of the boiler safety program of the Division of Building Safety. The current boiler regulatory program is not self funded, does not have an effective means of enforcement, and the inspections are being conducted by the boiler insurance companies as is required by their policy. By repealing these administrative rules (Chapters 1-5 of IDAPA 17.06), the expenditures would be eliminated, the statute requiring equipment safety (Section, 72-720, Idaho Code) would still be in effect so that unsafe conditions could still be addressed and the redundancy of requirements would be eliminated. If adopted, the rule change would eliminate the annual expenditure of a minimum of \$15,000 and eliminate the expenditure of Code Adoption every three years at an additional \$15,000.

In response to questions, Mr. Caine stated he is not sure what amount is charged for safety inspections. Currently the Division of Building Safety believes that inspections are performed by insurance companies, however, they have been told by insurance companies that this is not the case. It is his belief that insurance companies will be responsible for monitoring the safety of boilers. He stated that the repeal of the rules "should not affect safety significantly," and that the repeal could impact safety. He stated that without these rules, there is no requirement to maintain a safety certificate. Schools are required to carry insurance on their buildings, and most require specific boiler insurance. Mr. Caine stated that there are 3000 boilers in Idaho and

there is one part time inspector who oversees the program. The issue is that the current program costs the state \$15,000 a year and is not effective. He said that he would dispute statements from the American Insurance Association and the National Board of Boiler and Pressure Vessel Inspectors that repealing the rules would pose a threat to safety. He does not know if all the boilers in Idaho are insured, as he has no enforcement means to go and see that they are insured.

Tom Limbaugh, a Commissioner with the Industrial Commission, testified in favor of repealing the rules. He stated that in 1971 the Occupational Health and Safety Act (OSHA) began. Elevators, boilers, and pressure vessels were left in the hands of the state. Current statute is weak and only allows DBS to adopt minimum safety standards. There is no other statutory authority that was given to the state. Boilers have never been inspected by the State of Idaho. Insurance companies hire inspectors before issuing policies. Usually a general liability policy requires boilers to be individually insured. Current rules require a certificate, but the state has no authority to do anything about boilers that are not certified. If the rules are repealed, it is his hope that all parties concerned will attempt to put something in statute that will provide an effective means of enforcement. During building inspections, the Division of Building Safety does ask to see a safety certificate for boilers. If the rules are repealed, they will no longer ask to see a certificate of safety.

In response to questions, Mr. Limbaugh stated that the agency has not offered legislation to fix the problem because during a meeting in December of 2008, boiler owners and inspectors expressed that the inspections they were receiving through their private insurance companies were sufficient to ensure safety and legislation was not wanted. He does not know whether all the boilers in the state are covered by insurance policies. He believes that if the rules are repealed, nothing will change.

MOTION:

Representative Simpson moved to **reject Docket Nos. 17-0601-0901, 17-0602-0901, 17-0603-0901, 17-0604-0901, and 17-0605-0901**. Speaking to his motion, he stated that he would like to see the legislation that would replace these rules before repealing them. He stated that, as an example, he would not vote to end food inspections because the state does not do an adequate job inspecting, but instead would like to see proposed improvements.

Representative Pasley-Stuart spoke in support of the motion, saying that she would also like to see proposed legislation before repealing existing rules.

Representative Hartgen spoke in support of the motion, stating that asking for a repeal of a program that seems inadequate should involve bringing new legislation that would be adequate.

Motion carried on a voice vote. Representatives Lake and Thayn would like to be recorded as voting **NAY**.

RS 19149C1:

Bob Fick, of the Department of Labor, presented **RS 19149C1**. This proposed legislation would amend Employment Security Law to clarify the claims examination process, and to clarify the period of time in which the

Department may recover benefit overpayments and taxable wage contributions. It provides for the redeterminations of Department decisions, provides for the electronic filing of administrative appeals and the electronic service of determinations and decisions. It adds definitions, allows benefit payments to be made by direct deposit or through the use of debit cards, and allows the Director to compromise overpayments, penalties, interest and periods of disqualification when found to be in the Department's best interest.

In response to questions, Mr. Fick stated that moving away from paper checks to debit cards and direct deposit would potentially save the Department of Labor \$130,000. Money that is saved would be from the Unemployment Insurance Program and not from the State General Fund. Determinations made by the claims department can be appealed. Cases of fraud can be referred for criminal prosecution, and in the past year there have been fourteen of those cases.

MOTION: **Representative Lake** moved to introduce **RS 19149C1**. **Motion carried on a voice vote.**

RS 19222: **Bob Fick**, of the Department of Labor, presented **RS 19222**. This proposed legislation would amend Employment Security Law to allow the Director of the Department of Labor to develop and implement youth employment and job training programs subject to the availability of funds from public and private sources.

In response to questions, Mr. Fick stated that there is a lot of anecdotal evidence that youth programs are very important. The ages and hours of young people involved in programs operate within the constrictions of federal labor laws.

MOTION: **Representative Higgins** moved to introduce **RS 19222**. **Motion carried on a voice vote.**

RS 19133: **George Gutierrez**, representing the Crime Victims Compensation Program (CVCP) of the Industrial Commission, presented **RS 19133**. This proposed legislation would provide statutory authority to the Industrial Commission to use and/or develop a fee for service schedule for benefits paid on behalf of crime victims that is consistent with fair market value and other government and private benefit programs. It includes a provision that prohibits service providers from billing victims for any covered expense that is in excess of the charge allowable under the fee schedule. It does allow service providers to bill for those costs that are not covered by the Crime Victims Compensation Program due to reductions in benefit eligibility related to statutory and rule requirements.

In response to questions, Mr. Gutierrez stated that when a surviving spouse of a crime victim receives loss of income benefits, the CVCP supplements Social Security benefits.

MOTION: **Representative Marriott** moved to introduce **RS 19133**. **Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting

was adjourned at 2:37 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 11, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representative Trail

GUESTS: Dale R. Tankersley, Idaho Public Employee Association (IPEA); Donna Yule, IPEA; Brad Goodsell, Capitol Law; M. Alex Neiwirth, Idaho Association of Government Employees; Roger Simmons, IPEA; George Bacon, Department of Lands; Jeremy Chou, Givens Pursley; Megan Holbrook, Idaho Industrial Commission (IIC); Scott McDougall, IIC; Rebecca Fry, Department of Administration; Tricia Crump, Food Producers; Colby Cameron, Sullivan and Reberger; Tom Wilkinson; Peg Owens, Idaho Film Office; Diane Wonton, Idaho Film Office; Cindy Hedge, AFL/CIO; Emily Anderson, Office of the Governor

The meeting was called to order at 1:30 p.m. by Chairman Schaefer.

MOTION: **Representative Higgins** moved to **approve the minutes of February 9, 2010**, as written. **Motion carried on a voice vote.**

RS 19433: **Representative Grant Burgoyne** presented **RS 19433**, which would amend Idaho Code Section 67-5761 to provide that decisions made and actions taken by the Director of the Department of Administration pertaining to group insurance, annuities, health care services coverage for active and retired employees of the State of Idaho, including elected and appointed officers, as well as the terms and eligibility for the insurance and coverages, shall not be in force or in effect until the Legislature of the State of Idaho concurs by the adoption of a concurrent resolution. It will also provide that the terms and eligibility for health insurance for part time employees of the State of Idaho shall, effective July 1, 2010, be the same as they were on July 1, 2009.

In response to questions, Representative Burgoyne stated that he is unsure when the section of code to be amended was originally enacted. An increase or decrease in personnel costs would have either a negative or positive fiscal impact. This legislation does not directly impact funds, however, decisions made by either the Director of the Department of Administration and/or the legislature could potentially have an impact. If the Director did not obtain the concurrence of the legislature, the benefits for Fiscal Year 2011 would look different than they do for Fiscal Year 2010.

MOTION: **Representative Hartgen** moved to **return RS 19433 to the sponsor. On a roll call vote, motion carried 6:4:1.** Voting in favor of the motion were Representatives Marriott, Lake, Thayn, Hartgen, Simpson, and Takasugi.

Voting in against the motion were Representatives Schaefer, Ringo, Pasley-Stuart, and Higgins. Representative Trail was absent and excused.

**SUBSTITUTE
MOTION:**

Representative Ringo moved to **introduce RS 19433**. Speaking to her motion, she stated that when the legislature concludes, there are certain things it should not expect to happen during the interim. Changing of employee benefits during the interim did occur, and this legislation is being proposed to put a proper procedure in place.

Representative Pasley-Stuart stated that she shares Representative Ringo's sentiments.

Representative Lake stated that he might be inclined to support this legislation, however, bringing part time benefits back to where they were is a concern.

On a roll call vote, the motion failed 5:5:1. Voting in favor of the motion were Representatives Schaefer, Takasugi, Ringo, Pasley-Stuart, and Higgins. Voting in opposition to the motion were Representatives Marriott, Lake, Thayne, Hartgen, and Simpson. Representative Trail was absent and excused.

RS 19527:

Representative Eric Anderson presented **RS 19527**. This legislation amends the Film and Television Production Business Rebate Fund to include additional sources of funding that include grants, federal money, and donations. Currently there are 45 states including Utah, Washington, Oregon, Wyoming, and Montana, as well as 19 provinces and countries from around the world benefitting from similar film incentive programs that attract media production expenditures. This would help Idaho compete and build the industry to be competitive in a global market by expanding possible funding sources, allowing the industry to employ more Idahoans and diversify Idaho's economy. The legislation would sunset in 2014, and economic impact reports would be completed when the program sunsets.

MOTION:

Representative Lake moved to **introduce RS 19527. Motion carried on a voice vote.**

RS 19140:

George Bacon, of the Department of Lands, presented **RS 19140**. Before 2001, language in Idaho Code 28-9-310 of the Uniform Commercial Code (UCC) exempted the Department of Lands from filing requirements to perfect the state's interest in timber sold under contract from state endowment lands. It was recently discovered that this exemption was inadvertently lost when the UCC was overhauled in 2001. This proposed legislation would amend Idaho Code 28-9-310(b) to reinstate the exemption.

MOTION:

Representative Takasugi moved to **introduce RS 19140. Motion carried on a voice vote.**

RS 19128:

Scott McDougall, of the Industrial Commission, presented **RS 19128**. The Industrial Commission currently requires attorney cost and fee information to be submitted with all lump sum settlements. If the claim was litigated, the claimant's counsel and defense counsel must submit the same attorney cost and fee information on forms 1022 and 1023. This change would require

forms 1022 and 1023 to be submitted only upon request of the Commission, which would eliminate the redundancy of information, reduce paperwork, and reduce the costs associated with mailing the forms to attorneys.

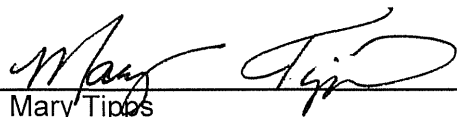
In response to questions, Mr. McDougall stated that the Industrial Commission is charged with regulating attorney fees in lump sum settlements. They must ensure that the fees are in accordance with their rules. The Commission also looks at fees in litigated claims, as half of those go on to become lump sum settlements. A great deal of information is required from attorneys. An attorney representing a claimant could receive less than 25% of a total settlement, but 25% is considered "reasonable". The form that is currently used does not gather all data. There is no mechanism in place to gather more information than is currently gathered.

MOTION: **Representative Pasley-Stuart** moved to **introduce RS 19128. Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:13 p.m.



Representative Robert E. Schaefer
Chairman



Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** February 15, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room EW05
- MEMBERS:** Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins
- ABSENT/
EXCUSED:**
- GUESTS:** Donna Yule, Idaho Public Employee Association (IPEA); Charlie Brown, IPEA; Patty Leonard, IPEA; Barbara Valdez, IPEA; Taryn Magrini, Idaho Women's Network; Vicki Tolita, Department of Human Resources; Dustin Hurst, Idaho Reporter; Richard Rogers; Judy Rogers; Daniel Wolf, Idaho Association of Government Employees; Brian Murphy, Idaho Statesman
- The meeting was called to order at 1:30 p.m. by Chairman Schaefer.
- MOTION:** **Representative Higgins** moved to **approve the minutes of February 11, 2010** as written. **Motion carried on a voice vote.**
- RS 19500:** **Representative Ringo** presented **RS 19500**, legislation that would refine the definition of "benefit" in Idaho Code 18-1351, (1), to allow a nonprofit organization that represents Idaho public employees to give an award, including one with economic significance, as part of a public employee recognition program.
- In response to questions, Representative Ringo stated that the legislation would only allow public employees to receive awards from nonprofit organizations that represent public employees. She has spoken to the Secretary of State's Office regarding this legislation and was told that this section of code is enforced by the Attorney General's Office. If that office determined there was a problem with the legislation, she would fix the problem or withdraw the legislation.
- MOTION:** **Representative Lake** moved to **introduce RS 19500**. In discussion, he stated that he sees nothing but benefits coming from associations recognizing public employees.
- Representative Takasugi** agreed with Representative Lake. He said that honoring employees for outstanding service or performance is a great gesture in a time when we are unable to provide pay raises.
- Motion carried on a voice vote.**
- RS 19531:** **Representative Pasley-Stuart** presented **RS 19531**, which would call for an annual day in Idaho to be proclaimed Equal Pay Day. She stated that pay disparity in Idaho is genuine, and this legislation would reaffirm that women deserve equal pay for equal work. It would demonstrate that Idaho

families will greatly benefit from a closure of the pay gap. Women currently make up more than 50% of the labor force, and there are many more women than men enrolled in colleges and universities. This legislation is not anti-men, but serves to illuminate and educate Idahoans. Nationwide, working families lose \$200 billion due to the wage gap. If married women were paid comparably to men, they would see an almost 6% rise in their family incomes, and poverty rates would be cut in half.

Representative Higgins stated that since the Equal Pay Act was signed in 1963, the wage gap has been closing at a very slow rate. It has narrowed by less than half a cent per year in the last forty years. She believes this is legislation that needs to be supported.

Representative Takasugi stated that there has been a history of inequality in pay. He believes in equal pay for equal work and would like to see the legislation made permanent.

In response to questions, Representative Takasugi yielded to **Representative Pasley-Stuart**. She stated that the United States does not have an established annual Equal Pay Day. The Idaho Department of Labor and Bureau of Labor Statistics both keep track of pay related data. Information changes annually. Information is available on the Bureau of Labor Statistics website. The legislation has no fiscal impact. Last year this legislation was presented and passed as a House Concurrent Resolution. This year the legislation, if passed, would become part of Idaho Code and would not need to be reintroduced annually. It would not alter or conflict with existing statute, but would only serve to recognize the pay disparity between men and women.

Representative Higgins stated that the National Committee On Pay Equity determines what day in April is to be designated as Equal Pay Day. Each participating state uses that date each year.

MOTION: **Representative Higgins** moved to introduce **RS 19531**. **Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:09 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 17, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:**

GUESTS: Joanna Guilfooy, Public Employee Retirement System of Idaho (PERSI); Dwight Johnson, Department of Labor; Ben Phillips, Department of Labor; Tracey Rolfsen, Department of Labor; Josh McKenna, Department of Labor; Donna Weast, Department of Human Resources (DHR); Megan Holbrook, Industrial Commission (IIC); Mindy Montgomery, IIC; Scott McDougall, IIC; Don Drum, PERSI; Representative Hagadorn

The meeting was called to order at 1:32 p.m. by Vice Chairman Marriott.

MOTION: **Representative Higgins** moved to **approve the minutes of February 15, 2010** as written. **Motion carried on a voice vote.**

H 458: **Representative Grant Burgoyne** presented **H 458**, an act relating to the Public Employee Retirement System (PERSI). It would amend Chapter 13, Title 59, Idaho Code by adding a new section 59-1354A, Idaho Code, to provide that when a state employee who is receiving a disability retirement allowance would like to attempt to return to work, there are procedures in place to allow that person to requalify for disability retirement, should that return to work be unsuccessful. In this bill, volunteer work does qualify as work. In order to requalify for PERSI disability retirement, the worker must requalify under the same disability that existed before the attempt to return to work.

In response to questions, Representative Burgoyne yielded to **Don Drum**, Executive Director of PERSI. He stated that the statute was written to be restrictive. If someone elects to go back to work, they are deemed to be no longer disabled and they lose their benefit. This bill allows employees to reapply for disability retirement, however, they must meet all the original requirements for disability retirement in order to have that benefit reinstated. They must be deemed to be totally and permanently disabled. Historically, he believes between 5 and 15 employees have attempted to return to work from a disability retirement.

MOTION: **Representative Lake** moved to send **H 458** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote.** **Representative Burgoyne** will carry the bill to the floor.

H 509: **Dwight Johnson**, of the Department of Labor, presented **H 509**. This is an

act relating to Employment Security Law. It would amend Chapter 13, Title 72, Idaho Code, by adding a new section 72-1336A, Idaho Code, to provide for youth employment and job training programs, including the Idaho Youth Corps. The Idaho Youth Corps involves mentoring, instruction, and work experience in everything from working with the Idaho National Laboratory, to working with young children at the Boys and Girls Clubs and the YMCA, to working outdoors clearing trails and doing conservation work. Last summer over 800 young Idahoans who were considered to be at risk or disadvantaged participated in the program. Last year the program was federally funded under the United States Department of Labor. This year the Idaho Department of Labor is searching for funding that will allow the program to continue. Governor Otter has suggested seeking out Public Private Partnerships. Currently the Department of Labor does not have statutory authority to seek out and accept those funds, and that is the reason for this bill.

In response to questions, Mr. Johnson stated that the Department of Labor would ensure that Youth Corps jobs would not compete with jobs available for other job seekers, and that ongoing reporting would take place. The emergency clause is in place to allow the Department to begin receiving funds immediately, so that the program can function this summer. Worker's Compensation coverage is in place to cover any youth injuries that might take place. Participants in the Idaho Youth Corps are not federal employees, they are participants in a federal program. There is a broad demand for help for young people with barriers to employment.

Mr. Johnson yielded to **Representative Hagedorn**, who stated that he was asked to look at creating an Idaho Youth Conservation Corps three years ago when it was discovered that our surrounding states had this program but we did not. Two years ago a pilot team of kids was sponsored by the Bureau of Land Management (BLM) in a joint effort with the state. During the six week period of working experience, a great positive change was seen in those kids. Last year the program was greatly expanded and was very successful. Private companies are interested in helping to fund the program, but the bill must be passed in order for them to be allowed to contribute.

MOTION: **Representative Higgins** moved to send **H 509** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Hagedorn** will carry the bill to the floor.

H 510: **Dwight Johnson**, of the Department of Labor, presented **H 510**. This would provide many amendments related to Employment Security Law. It defines terms, makes technical corrections, allows the Director of the Department of Labor to determine methods of paying benefits and refunds, and it also allows the Director to compromise overpayments, penalties, interest, and disqualification periods. It revises appellate procedure, and provides limitations of actions.

In response to questions, Mr. Johnson stated that the Supreme Court issued a ruling stating that in issuing a check, the Department was making a determination. The bill makes changes that allow the Department to go back and check for cases of fraud. It would allow the Department to recover monies in cases of fraud or cases of overpayments due to misstatements. The nature of the appeals process would not be changed from a formal

process. The language in the bill clarifies how the appeals process takes place.

Mr. Johnson yielded to **Tracey Rolfsen**, Deputy Attorney General, who stated that a criminal statute can be imposed in cases of fraud. Most people reporting unemployment claims do not use regular mail, they report online or by telephone, so the offense is handled by the state and not federally. Cases of overpayments or fraud can be examined and repayments can be demanded going back five years. This allows the Department adequate time to conduct investigations and conduct research, and it mirrors criminal statute, where five years are given. Decisions made during an appeals process are delivered by mail.

Josh McKenna, Bureau Chief at the Department of Labor, stated that last year about 2000 fraud determinations were issued. This represents roughly 2% of the benefits caseload. Fraud is generally discovered through tips or quarterly reports from employers. Last year the Department lost roughly \$4 million to fraud overpayments. He is not sure what the savings would have been, had this legislation been in place. Penalties are only charged in cases of fraud.

MOTION: **Representative Takasugi** moved to send **H 510** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Representative Lake** moved to **hold H 510** for one week. **Motion carried on a voice vote.**

H 527: **Scott McDougall**, of the Industrial Commission, presented **H 527**, an act that would amend Section 72-528, Idaho Code, to revise provisions relating to required statistical information and to make technical corrections. It would prevent redundancy of requirements.

MOTION: **Representative Takasugi** moved to send **H 527** to the floor with a **DO PASS** recommendation. **Representative Takasugi** will carry the bill to the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:43 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

- DATE:** February 19, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room EW05
- MEMBERS:** Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins
- ABSENT/
EXCUSED:** Representatives Hartgen, Pasley-Stuart
- GUESTS:** Tom Williamson, SOA Entertainment; Bethany Rich, DIGI Meem LLC; Lee Lay; Dustin Hurst, Idaho Reporter; Shelby Kerns, Division of Financial Management
- The meeting was called to order at 1:32 p.m. by Chairman Schaefer.
- MOTION:** **Representative Higgins** moved to **approve the minutes of February 17, 2010** as written. **Motion carried on a voice vote.**
- H 525:** **Representative Cronin** presented **H 525**, legislation to amend the Film and Television Production Business Rebate Fund to include additional sources of funding. The sources include grants, federal money, and donations. Currently there are 45 states including Utah, Washington, Oregon, Wyoming, and Montana, as well as 19 provinces and countries from around the world who are benefitting from similar film incentive programs. Expanding possible funding sources could allow Idaho to be more competitive in this market, diversify the local economy, and employ more Idahoans. The legislation would sunset in 2014, and economic impact reports would be completed upon sunset.
- MOTION:** **Representative Lake** moved to send **H 525** with a **DO PASS** recommendation. **Motion carried on voice vote.**
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 1:36 p.m.

Representative Robert E. Schaefer
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: February 23, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:**

GUESTS: Norm Semanko, Idaho Water Users Association; George Gutierrez, Crime Victims Compensation Fund, Industrial Commission; Tracy Rolfsen, Department of Labor; Michael Johnson, Department of Labor; Fairy Hitchcock, Hitchcock Family Advocates; Donna Weast, Department of Human Resources; Eric Bair, Idaho Farm Bureau; George Bacon, Department of Lands; Mindy Montgomery, Industrial Commission; Don Drum, Public Employee Retirement System of Idaho; Dwight Johnson, Department of Labor

The meeting was called to order at 1:30 p.m. by Chairman Schaefer.

MOTION: **Representative Higgins** moved to **approve the minutes of February 19, 2010** as written. **Motion carried on a voice vote.**

H 508: **George Gutierrez**, of the Crime Victims Compensation Program (CVCP) of the Industrial Commission, presented **H 508**. This bill would provide statutory authority to the Industrial Commission to use and/or develop a fee schedule for benefits paid on behalf of crime victims. The fee schedule would be consistent with fair market value and other government and private benefit programs. The proposed legislation includes a provision that prohibits service providers from billing victims for any covered expense that is in excess of the charge allowable under the fee schedule, and allows service providers to bill for those costs that are not covered by CVCP due to reductions in benefit eligibility related to statutory and rule requirements.

The CVCP provides up to \$25,000 in benefits to individual victims and their family members. The program has paid out about \$36 million so far in benefits. 83% of cases involve criminal misconduct against women and children. Funding comes from fines imposed on convicts, and from a federal grant. As medical costs have increased, the expenses CVCP has incurred for sexual assault exams and other treatments have risen. Under current statute, if claims or expected claims exceed their funding base, the CVCP can initiate an across the board decrease in benefits payments. With this decrease, the victim then receives a bill for the difference between the bill from the hospital or other provider, and what was actually paid by CVCP. Victims who are unable to pay have stopped medical and psychological treatments. This legislation seeks to prevent providers from billing crime victims and to provide a fair fee schedule that will be accepted by providers as payment in full for the care they provide. There is no fiscal impact on the

State General Fund. He has not been notified of any opposition to this bill in discussions with various providers and agencies.

In response to questions, Mr. Gutierrez stated that, looking at data for the last two years, billed amounts from hospitals and other providers were consistent with what was paid out. He believes that the fee schedule is comparable to what Blue Cross pays for services. Although he has not heard opposition from providers or associations, he also does not have endorsement from providers or associations. Forensic work is done by hospitals and child advocacy centers. There was a steep rise in medical and forensic payments between 2006 and 2008, however, there was about a 1% increase from 2008 to 2009 because of a change in how payments were made. The CVCP does not keep statistical information on how many cases are prosecuted and convicted. There is no data collected on whether claims are fraudulent, however, each case must meet eligibility criteria through the police department to be referred to the CVCP. According to the Attorney General's office, current statute allows CVCP claims examiners to look at each individual case, however, without a fee schedule in place it is not possible for them to determine what is usual, customary, and reasonable. The state's work comp fee schedule would be the model for a CVCP fee schedule and could potentially come before the committee in future rules hearings.

Fairy Hitchcock spoke in opposition to **H 508**. Her stepgranddaughter was raped several years ago and has seen roughly \$600 in copayments for her care, and has stopped receiving care due to inability to pay the bills. Ms. Hitchcock does not believe that the available funds are being used appropriately to assist in paying for victims' services.

In response to questions, Ms. Hitchcock yielded to **Mr. Gutierrez**. He stated that the total amount of the CVCP annual budget is roughly \$4 million. Of that, about \$3.2 million goes directly to victims services. The balance is used for overhead costs including rent, salaries, operating expenses, and administrative costs. All money that comes from the federal government goes directly to victims services, which include medical bills, forensic costs, funeral expenses, dependent death benefits, dental expenses, counseling for victims and family members, travel to and from services, and lost wages. Dependent death benefits are coordinated with Social Security. Crime victims are referred to the CVCP by victim witness coordinators within law enforcement agencies, the prosecuting attorney, and occasionally, rape crisis centers. Money does not go directly to the victim. All expenses are the responsibility of the victim who is receiving services, however, the CVCP pays those bills on behalf of the victim. Although the CVCP does receive awards of restitution, the money is often difficult or impossible to collect. The adoption of a fee schedule will not provide funding, but will provide cost containment. The CVCP requires victims to utilize third party payment systems that they have, such as insurance coverage, however the CVCP would pick up the victim's copayments or other out of pocket expenses. Preexisting conditions that are not the result of the crime are not covered by the CVCP.

MOTION:

Representative Takasugi moved to send **H 508** to the floor with a **DO PASS** recommendation.

In discussion on the motion, **Representative Takasugi** stated that he would like more information about the program itself, as there might be a disconnect between the program's name and what it actually does.

Representative Simpson stated that he will vote to send **H 508** to the floor, however, he would like more information about how the program is spending money.

Motion carried on a voice vote. Representative Takasugi will carry the bill on the floor.

H 526: **George Bacon**, of the Department of Lands, presented **H 526**, legislation that would amend Idaho Code 28-9-310(b) to reinstate the exemption that the Department of Lands previously had, which was inadvertently eliminated when the Universal Commercial Code (UCC) was overhauled in 2001. The original code section exempted the Department of Lands from filing requirements to perfect the state's interest in timber sold under contract from state endowment lands. Reinstating the section would eliminate 320 to 400 hours of personnel time spent on filing and managing UCC filings on approximately 150 to 200 timber sales contracts each year, and would save about \$8000 to \$10,000 in personnel costs each year from the Earnings Reserve Fund.

In response to questions, Mr. Bacon stated that perfecting the state's interest refers to perfecting that state's security interest.

MOTION: **Representative Higgins** moved to send **H 526** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Higgins** will carry the bill on the floor.

H 558: **Norm Semanko**, of the Idaho Water Users Association, presented **H 558**, which would allow irrigation districts to employ seasonal help in a more regular and effective manner. It would clarify that an "employee" does not include any person in a position that does not exceed eight consecutive calendar months in a calendar year, if the employer certifies that the position is seasonal or casual and is affected by weather and the growing season. The definition already applies to park and golf course positions. This bill seeks to clarify that irrigation district employees who are truly seasonal in nature are not employees for purposes of the Public Employees Retirement System of Idaho.

Mr. Semanko asked to **amend H 558** and has an amendment prepared. The amendment states:

"On page 4 of the printed bill, delete lines 13 through 18, and insert: "(g) A person occupying a position that does not exceed eight (8) consecutive months in a calendar year with a city, ~~or county~~ or irrigation district when the city, ~~or county~~ or irrigation district has certified, in writing to the system, the position is (i) season or casual; and (ii) affected by weather and the growing season, including parks, ~~and golf course positions~~ and irrigation positions; or".

Correction to Title

On page 1, in line 4, following "POSITION" insert: "WITH A CITY, COUNTY

OR IRRIGATION DISTRICT”; in line 5, delete “EMPLOYER” and insert: “CITY, COUNTY OR IRRIGATION DISTRICT”; and in line 6, following “SEASON” insert: “AND TO PROVIDE FOR APPLICABILITY TO IRRIGATION POSITIONS”.”

MOTION: **Representative Lake** moved to **send H 558 to General Orders** with the amendment attached. **Chairman Schaefer** seconded the motion. **Motion carried on a voice vote. Representative Lake** will carry the bill on the floor.

H 510: **Dwight Johnson**, of the Department of Labor, presented **H 510**, which would amend Employment Security Law to clarify the claims examination process. It would also clarify the period of time in which the Department may recover benefit overpayments and taxable wage contributions, and would provide for redeterminations of Department decisions. It would provide for electronic filing of administrative appeals and electronic service of determinations and decisions. It would allow benefit payments to be made by direct deposits or through the use of debit cards. It would allow the Director to compromise overpayments, penalties, interest and periods of disqualification when found to be in the Department’s best interest. It also adds definitions. The proposed five year statute of limitations mirrors the statute found in other areas, and it allows time for cases of fraud to be detected, investigated, and determined.

In response to questions, Mr. Johnson stated that all cases of fraud are pursued, regardless of whether a claimant has left the state. Providing the Director with the authority to compromise overpayments would allow the Department to collect something rather than nothing. The Department is not attempting to end run the Supreme Court’s decision regarding a statute of limitations, but rather, is responding that enough time is required to proceed effectively in both fraud and overpayment cases. Providing the same statute of limitations for both fraud and nonfraud allows time to determine whether overpayments were the result of fraud or innocent error, it allows for more accurate computer programming and other record keeping, and it allows the Director to negotiate with individuals who have been overpaid.

MOTION: **Representative Lake** moved to send **H 510** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Hartgen** is recorded as voting **NAY. Representative Lake** will carry the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:52 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 1, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representative Trail

GUESTS: Don Dietrich, Department of Commerce (DOC); Michael Savoie, Department of Human Resources (DHR); Damian Bard, DOC; Eddie Yen, DOC; Armando Orellana, DOC; Dr. Cao Guoli, DOC; Wayne Hammon, Division of Financial Management

The meeting was called to order at 1:32 p.m. by Chairman Schaefer.

MOTION: **Representative Higgins** moved to approve the minutes of February 23, 2010 as written. **Motion carried on a voice vote.**

PRESENTATION: **Damien Bard**, Division Administrator for the Department of Commerce, explained that Idaho's economy declined by 23% for 2009 to \$3.2 billion. He noted that it is making a gradual recovery and the Department is hopeful that exports will continue to recover. He introduced the international trade managers for Taiwan, Mexico and China.

Mr. Eddie Yen, International Manager for Taipei, Taiwan, presented the Trade and Investment Promotional Overview for Taiwan. He offered a brief overview of the country's economic climate. Idaho exported \$655 million in 2009 which was an 88% increase from 2008. Taiwan has a very "Americanized" business environment and there is no anti-American sentiment. Looking forward, battery and monitoring systems for vehicles, nuclear waste handling/storage and green energy are the target areas for expansion with Idaho in the future. Trade with Taiwan is challenging because Idaho is a lesser known state. However, new energy technology is a promising opportunity.

Mr. Armando Orellana, International Manager for Mexico, presented the Trade and Investment Promotional Overview for Mexico. In 2009, Mexico was one of the countries most affected by the recession. There was a 7.2% decrease in the GDP for 2009. In 2010 the forecast is a GDP growth of 3.9%. Mexico's growth is deeply tied to the US economy and it has become the top export market for Idaho this past year. Exports to Mexico are very diverse and in the future Idaho is looking at opportunities to expand the dairy and lumber industries' exports to Mexico.

Dr. Cao Guoli, International Manager for Shanghai, China, presented

the Trade and Investment Promotional Overview for China. China is recovering very well from the global recession and saw an increase of 8.7% in GDP growth for 2009. Idaho exports to China were \$571 million last year and is the third largest export destination for the state. Semiconductor, computer and capital equipment products accounted for more than \$500 million of the exports. Future opportunities for Idaho include renewable energy, building materials, mining materials and agricultural machinery. The challenges facing China include: stiff competition from other states and countries, the lesser known status of the state and the fact that there are fewer direct financial incentives and less convenient access to sea transportation.

In closing, **Mr. Bard** stated that the key objective for these yearly visits to Idaho is to do cross training with staff and continue to expand the group that can support the efforts of the trade managers.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:56 p.m.

Representative Robert E. Schaefer
Chairman

Sarah Hendrick
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 3, 2010

TIME: Upon Adjournment of the House

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:**

GUESTS: Wayne Hammon, Division of Human Resources (DHR) and Division of Financial Management (DFM); Jeanne Jackson-Heim, Real Estate Commission; Donna Yule, Idaho Public Employee Association (IPEA); Wayne Hoffman, Idaho Freedom Foundation; Jane Buser, Boise State University; Janet Gallimore, Idaho State Historical Society; Donna Weast, Department of Human Resources (DHR); Linda Beckman, Department of Lands; Karena Whitmore, Department of Lands; Ben Boot; Jan Hanke; Karen Drew, Idaho Department of Agriculture; Bill Deal, Department of Insurance; Dr. Roger Reynoldson; Don Drum, PERSI; Alex Neiwirth, Idaho Association of Government Employees

The meeting was called to order at 1:45 p.m. by Chairman Schaefer.

MOTION: **Representative Higgins** moved to **approve the minutes of March 1, 2010** as written. **Motion carried on a voice vote.**

S 1252: **Wayne Hammon**, Acting Administrator of the Division of Human Resources (DHR), presented **S 1252**, which would amend Section 67-5309, Idaho Code, to revise provisions relating to a rule. It would expand the interview list of eligible applicants for state jobs from the current most 10 qualified to a new standard of 25. State job postings have attracted a rather large pool of applicants, many of whom are highly qualified for positions. Recently the state has averaged 65 applicants for each open position. Increasing the number of applicants on the eligibility list will provide selecting officials the flexibility to explore these additional resources.

In response to questions, Mr. Hammon stated that employees on the eligibility list must be qualified by the same standards that have always been in place. Using a percentage instead of a static number of applicants who can be interviewed would cost approximately \$50,000 in computer reprogramming. The new standard of 25 applicants will not have a fiscal impact.

Jeanne Jackson-Heim, of the Real Estate Commission, spoke **in support of S 1252**. In her experience hiring new employees, she has found that sometimes the top ten candidates don't present the best new employee. Many applicants in the current economy are overqualified or looking for any job, and are not necessarily the best fit for a particular job. Those present a higher turnover rate. Personality cannot be measured by the state's

computerized testing system or by an application. It is helpful to meet with potential applicants in person so that the best possible fit can be found.

In response to questions, Ms. Jackson-Heim stated that overqualified applicants are not eliminated from the applicant pool, however, it has been her experience that many of those do not want to work specifically with her commission, and are simply looking for any type of work they can find. These employees tend to move on as soon as another opportunity is presented. It is a more efficient use of the commission's time and dollars to hire employees who want to stay. In her experience, meeting with only ten applicants in person does not provide a wide enough hiring pool.

Linda Beckman, Human Resource Officer of the Department of Lands, testified **in support of H 1252**. The computerized exams that are provided by the state as an initial screening device only test for technical skills, but do not allow the employer to look for competencies like leadership skills and communication skills. Only personal interviews allow the employer to evaluate these qualifications. She asked, why would the state limit itself from hiring potentially wonderful new employees by not expanding the applicant pool? When there are a great deal of overqualified applicants, as there currently are due to the economy, those end up as the top ten and the only applicants that the employer is currently allowed to interview. This skips over those applicants who are also qualified and could potentially provide a better fit.

Karen Drew, Human Resources Specialist Sr. of the Department of Agriculture, spoke **in support of S 1252**. She has found that because of economic conditions and the limitations of the computerized testing system, many of the applicants she is allowed to interview are overqualified and expect higher pay. Expanding the number of applicants that can be interviewed would provide greater efficiencies and cost effectiveness.

In response to questions, Ms. Drew stated that in the past she was hiring for a particular position and not able to find an appropriate employee within the top ten candidates. Number 22 on the list was not able to be interviewed because of the current rule, however, the applicant contacted the agency and was able to be hired as a temp. After a period of time, she applied for a permanent position, placed in the top ten, and was able to be hired into the permanent position. Pay equity has been monitored and employees are not always brought in at the minimum end of the pay grade. The Department of Agriculture does cover a projected pay range during a telephone screening interview, prior to an in person interview.

Bill Deal, Director of the Department of Insurance, spoke **in support of S 1252**. He stated that his department has about 72 full time employees, and most of them have an area of specialty. When resumes come in, they may state that the applicant has a particular amount of knowledge pertaining to a specialized area, however, during an interview it is sometimes discovered that the applicant does not actually possess the specific knowledge that is necessary. This makes the interview process very important. It is not possible to evaluate how a prospective employee will fit in with an existing team unless that applicant can be interviewed. Currently, if a suitable new employee is not found within the top ten candidates as determined by the computerized application and testing process, the entire process must be

stopped and the position must be advertised again, so that another top ten can be established. This takes a great deal of time. He is not sure that 25 is the correct number of applicants that should be able to be interviewed for current positions, however he knows that ten is not enough.

In response to questions, Mr. Deal stated that because of economic conditions, people are searching for any job possibility. Many applicants present impressive resumes but do not actually fit the position when looked at more closely, during an interview.

Janet Gallimore, Executive Director of the Idaho State Historical Society, spoke **in support of S 1252**. She stated that expanding the list of applicants who can be interviewed would provide greater access to applicants with specialized skills. On computerized listings, for example, the state might ask for someone with skills in maintenance, however, the Historical Society might need to be sure that applicants are skilled in maintaining historical sites. Applicants are not able to express personality or any other special traits through a computerized application or test, but can only express behavioral traits during an interview. Having access to only ten applicants does not allow state agencies and commissions to search for the most qualified person, it is too limiting.

Mr. Hammon yielded to a question, stating that expanding the pool of applicants would not open the state to litigation but would instead offer more protection, as a wider pool of applicants could be considered. He stated that he has received a great deal of human resources training. He has seen great value in older employees and has faith that the State of Idaho's human resources teams do not discriminate based on the age of applicants, and that they are not hiring based on personal relationships. Each applicant who is considered must meet qualification requirements, and if those are not met, the applicant is removed from the list. If 25 are allowed to be interviewed but only 20 meet hiring criteria, only those 20 will be interviewed. Applicants are given their test scores upon request.

MOTION: **Representative Hartgen** moved to send **S 1252** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Hartgen** will carry the bill on the floor.

S 1247: **Wayne Hammon**, Administrator for the Division of Financial Management, presented **S 1247**, legislation that would increase the statutory cap on the amount of hours one state employee could transfer to another from forty (40) to eighty (80) while maintaining all other existing restrictions. Currently if an employee has exhausted all of his or her leave time, other employees are able to donate time to that employee. Hundreds of state employees donate each year. In his office there have been three of these donations during the last year, and all three have involved maternity leave.

In response to questions, Mr. Hammon stated that those employees who have enough leave to donate are not necessarily without the opportunity to take time off themselves, however, there are a lot of vacancies and employees are working harder.

MOTION: **Representative Higgins** moved to send **S 1247** to the floor with a **DO PASS** recommendation. Speaking to her motion, she stated that she experienced

working in a company where a coworker had a stroke. She was able to donate vacation time to him, and other employees also donated. This man had been a faithful employee of the company for twenty years, had children, and a stay-at-home wife. Because of the donated time from his coworkers, he was able to receive his full income for a full year, which greatly benefitted him and his family.

Motion carried on a voice vote. Representative Higgins will carry the bill on the floor.

H 604:

Representative Pasley-Stuart presented **H 604**, legislation that would prohibit the use of severance pay to include payment by an employer toward the purchase of membership in PERSI. Last year, three state employees left their employment and were paid a collective total of around \$125,000. She stated that this is an outrage to other state employees who are on furlough, or who have been laid off, and who did not receive such a purchase of service. This is a huge cost to taxpayers.

She proposed amending the bill to insert a period after the word "government", and to erase lines 15, 16, 17, and 18 through the word "education", leaving the words "for purposes of".

Representative Higgins spoke in favor of **H 604**, saying that providing a golden parachute for only some employees is not a good practice and should be eliminated.

In response to questions, **Representative Pasley-Stuart** stated that the bill is attempting to stop severance payments by the state. **Representative Higgins** stated that she believes there is a bill in the Senate that would allow employees to buy into PERSI, but this would not be a cost incurred by the state. **Representative Ringo** stated that a few years ago, legislation passed allowing employees to buy into PERSI, and under current Code it is also allowable for the state to purchase service for public employees who are retiring, and that is what the bill seeks to eliminate.

Mr. Hammon yielded to questions, stating that this bill seeks to eliminate the authority for state agencies in the executive branch and legislative branch to purchase for employees. The authority to purchase service remains in this bill for school districts, courts, cities, counties, and others who participate in PERSI. He stated that the Office of the Governor supports the bill. Currently there are 20 administrative appeals in process. Appeals are filed before a lawsuit moves forward. The State of Idaho has a higher than average number of appeals this year. The average cost to resolve one of these appeals is between five and six thousand dollars. He will get an exact dollar amount to the committee.

Wayne Hoffman, Executive Director of the Idaho Freedom Foundation, stated he is **neither in support of nor in opposition** to any legislation. He asked to offer public policy comment on **H 604**. He stated that this issue was included in the Pork Report because of the lack of equity involved in giving certain employees a stipend and not providing it to others.

MOTION:

Representative Thayn moved to send **H 604 to General Orders with the amendment attached. Chairman Schaefer** seconded the motion. **Motion**

carried on a voice vote. Representative Pasley-Stuart will carry the bill on the floor with **Representative Higgins** as co-sponsor.

H 548: **Representative Ringo** presented **H 548**. It would refine the definition of “benefit” in Idaho Code 18-1351 (1), to allow a nonprofit organization that represents Idaho public employees to give an award, including one with economic significance, as part of a public employee recognition program.

She proposed an amendment to H 548, which would read:

“On page 1 of the printed bill, delete lines 14 through 16, and insert: “an award with economic significance of five hundred dollars (\$500) or less given to a nonelected public servant by a nonprofit organization whose membership is limited to public servants as part of a public servant recognition program that is designed to recognize innovation and achievement in the workplace, provided that the organization discloses in advance on its website the nature of the program, the amount of the award, the names of any persons or entities that contributed to the award and the recipient of the award.”.”

Donna Yule, of the Idaho Public Employee Association (IPEA), spoke **in favor of H 548**. She stated that this is important for state employees during a time when morale is low. She would like an opportunity to recognize their hard work and exemplary service.

In response to questions, Ms. Yule stated that the IPEA wants to be sure that the bribery statutes are not weakened in any way, and was involved in discussions with attorneys to ensure that the language was transparent. She yielded to **Representative Ringo**, who stated that publishing the names of those who contributed would seek to prevent any abuses.

MOTION: **Representative Hartgen** moved to **send H 548 to General Orders with the amendment attached. Chairman Schaefer** seconded the motion. **Motion carried on a voice vote. Representative Ringo** will carry the bill on the floor.

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

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 11, 2010

TIME: 2:30 p.m. or Upon Adjournment of the House

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayn, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:**

GUESTS: Karen Echeverria, Idaho School Board Association (ISBA); Brent Nye, Boise Schools; Sheila Hall, Boise Schools; Barbara Jorden, Idaho Trial Lawyers Association (ITLA); Don Drum, PERSI; Joanna Guillfooy, Office of the Attorney General; Harold Ott, Idaho Rural Schools Association (IRSA); Bob Fick, Department of Labor; Darren Monroe, ITLA; Brandon Woolf, State Controller's Office (SCO); Monica Young, Department of Health and Welfare (DHW); Dan Goicoechea, SCO

The meeting was called to order at 2:18 p.m. by Chairman Schaefer.

MOTION: **Representative Pasley-Stuart** moved to **approve the minutes of March 3, 2010** as written. **Motion carried on a voice vote.**

H 646: **Bob Fick**, of the Department of Labor, presented **H 646**. This legislation would make two changes in the chargeability provisions of the unemployment insurance law. The first involves eligible unemployment benefit claimants who also receive workers' compensation benefits. It would treat those workers' compensation benefits received for lost wages as earnings assessed against the calculation of weekly unemployment benefits. The second involves workers who have been laid off, who have entered approved training courses. It would relieve the chargeable employer of further responsibility for unemployment benefit payments if the employer offers the laid off worker suitable employment and the worker turns it down because the worker wants to complete the approved training. The number of workers receiving workers' compensation at the same time as unemployment benefits is very small, and the number of workers in an approved training program affected by this legislation would likely also be small. There would be no fiscal impact on the State General Fund, however, there would be a minimally positive impact on the Unemployment Insurance Trust Fund.

Barbara Jorden, representing the Idaho Trial Lawyers Association (ITLA), spoke **in support of H 646**, with a reservation. She would like to see the bill amended so that in line 31 (b) "compensation for lost wages" is stricken, and "temporary disability benefits received" is inserted.

In response to questions, Ms. Jorden yielded to **Darren Monroe**, also representing the ITLA. He stated that temporary disability benefits are different from permanent disability benefits. In the current bill language,

there is no differentiation. The proposed amendment would correct this. Under current law, if an employee is put on light duty due to an injury or other disability, and the employer is unable to accommodate that light duty, the employee is likely to become unemployed. That employee could receive both workers' compensation and unemployment benefits. This proposed legislation would stop the double dipping. If an employee is permanently injured, he or she would receive ongoing disability benefits unless a settlement is reached and a lump sum is paid out. The proposed language change seeks to protect those employees who become permanently disabled.

Mr. Fick testified that the purpose of the bill is to have someone who is receiving replacement wages through workers' compensation not also receive unemployment benefits. He does not believe that the proposed amended language would pose a problem to the intent of the legislation.

MOTION: **Representative Lake** moved to **send H 646 to General Orders**, but not necessarily with the proposed amended language. He would like to discuss the proposed amendment with Senator Cameron. **Chairman Schaefer** seconded the motion. **Motion carried on a voice vote. Representative Lake** will carry the bill on the floor.

H 644: **Karen Echeverria**, representing the Idaho School Boards Association, presented **H 644**. This would amend Idaho Code 59-1302 to exempt any person not under contract with a school district or charter school, who on a day-to-day basis works as a substitute teacher replacing a contracted school teacher and is paid a substitute wage as established by district policy from the definition of 'employee' under the Public Employee Retirement System (PERSI) of Idaho Code. It would also exempt any person who, on a day-to-day basis works as a substitute assistant replacing a staff instruction assistant or a staff library assistant and is paid a substitute wage as established by district policy from the definition of 'employee' under the PERSI section of Idaho Code. There is no fiscal impact to the State General Fund, but this would provide a cost savings to school districts. She stated that most substitute teachers have stated they would prefer not to participate in PERSI. Wages are low and the time they spend working is relatively short. She also stated that school administrators are in support of this change.

In response to questions, Ms. Echeverria stated that substitute teachers have called to register concerns when they are told that they will have to begin paying into PERSI benefits.

Brent Nye, representing the Boise School District, yielded to questions. He stated that when a retired school teacher is hired as a substitute, a form is completed for PERSI. If the teacher will work less than 20 hours per week, he or she does not qualify as an employee in regard to PERSI benefits. If that teacher will work more than 20 hours and does qualify as a PERSI employee, he believes that it will result in the loss of pension benefits. On a typical day there are probably 200 substitutes working in the Boise District. Approximately 20 of those are retired teachers. The substitute pay rate is \$75.00 per day. Long term substitutes are those who work ten or more days in the same classroom.

Don Drum, Executive Director of PERSI, yielded to a question, stating that if a retired teacher exceeded the limit of working hours allowed under PERSI's benefit, yes, their retirement benefit would stop.

MOTION: **Representative Simpson** moved to send **H 644** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representatives Ringo and Pasley-Stuart** are recorded as voting **NAY**. **Representative Simpson** will carry the bill on the floor.

PRESENTATION: **Brandon Woolf**, Deputy State Controller for the Division of Payroll for the State Controller's Office (SCO), provided the committee with information regarding state employee raises and bonuses that have been given between Fiscal Year 2007 (FY07) and the present. There are eight types of pay increases that state employees have received. These include increases based on performance, payline exemptions, changes in faculty rank, promotions, reclassifications upward, other reclassifications, external salary equity adjustment increases, and internal salary equity adjustment increases. State employees have also received bonuses for the following reasons: personnel cost savings, retention, recruitment, cost sharing, short-term commendable bonuses and short term commendable temporary bonuses. He stated that his office processes payroll and does not have the ability to answer any questions as to why or how decisions to provide raises or bonuses to any individual employees were made.

In response to questions, Mr. Woolf stated that an internal salary adjustment increase involves salary compression. An individual employee could have received more than one type of increase in a given fiscal year. He does not have statistics on the number of people employed by each individual state agency, but will gather those numbers and provide them to committee members. The House and Senate are listed as having taken a rate decrease in FY09.

Mr. Woolf yielded to **Dan Goicoechea**, who stated that if a citizen or legislator asks for any public information, it will be provided to them. The SCO has requested the establishment of a searchable database, however, the funding has not been approved. A technological link to a third party website could be created, however, linking to a third party would not allow the state to attest to the authenticity and accuracy of the information.

Monica Young, HR Manager of the Department of Health and Welfare (DHW), yielded to questions. She stated that currently there are approximately 3100 employees of DHW. In FY09 there were approximately 3200. She would guess that half of those are in Ada County. She stated that she would be able to provide additional information about the number of employees who received merit raises in FY09 as she can conduct research.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:45 p.m.

Representative Robert E. Schaefer
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE COMMERCE AND HUMAN RESOURCES COMMITTEE

DATE: March 25, 2010

TIME: Upon Adjournment of the House

PLACE: Room EW05

MEMBERS: Chairman Schaefer, Vice Chairman Marriott, Representatives Lake, Trail, Thayne, Hartgen, Simpson, Takasugi, Ringo, Pasley-Stuart, Higgins

**ABSENT/
EXCUSED:** Representatives Marriott, Trail, Hartgen, Pasley-Stuart

GUESTS:
The meeting was called to order at 4:01 p.m. by Chairman Schaefer.

MOTION: **Representative Simpson** moved to approve the minutes of March 11, 2010 with the following corrections: strike the "update" section at the bottom of page 3 as it occurred after the meeting adjourned. **Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 4:07 p.m.

Representative Robert E. Schaefer
Chairman

Sarah Hendrick
Secretary