AGENDA

HOUSE BUSINESS COMMITTEE

1:30 P.M.

Room EW41

Thursday, January 13, 2011

SUBJECT	DESCRIPTION	PRESENTER
	Organizational Meeting	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Max Black
Vice Chair Frank Henderson
Rep Gary Collins
Rep Carlos Bilbao
Rep Marge Chadderdon
Rep Brent Crane
Rep Jim Patrick
Rep Clifford Bayer
Rep Joe Palmer
Rep Jeff Thompson
Rep Vito Barbieri
Rep Reed DeMordaunt
Rep Jim Guthrie
Rep Pat Takasugi
Rep Elaine Smith
Rep John Rusche
Rep Brian Cronin

COMMITTEE SECRETARY

MaryLou Molitor

Room: EW58

Phone: (208) 332-1139
email:
mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Thursday, January 13, 2011

TIME: 1:30 P.M.

PLACE: Room EW 41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: None

GUESTS: Janice Foster and John Nielsen, Division of Building Safety; Mark Gehrke, Intern; Dennis Stevenson, Administrative Rules Coordinator; Lincoln Smyser, Connolly & Smyser; Jesse Taylor

Meeting was called to order at 1:35 p.m. **Chairman Black** welcomed all members and asked them to introduce themselves and give some information about their backgrounds and interests. Chairman Black introduced the college intern, **Mark Gehrke**, who is assigned to both Agricultural Affairs Committee and Business Committee. The Chairman encouraged members to ask Mark for assistance, as his time allows. He also introduced the committee Page, **Ted Smith**

Chairman Black recognized **Dennis Stevenson**, Administrative Rules Coordinator, and asked Mr. Stevenson to briefly review the Administrative Rules process. Mr. Stevenson explained that all agency rules undergo a review process by the Legislature each year. He noted that if a subcommittee is assigned to hear certain agency rules, the subcommittee does not have any authority to approve rules or to stop implementation of proposed rules; it can only recommend that a specific action be taken by the full committee. Mr. Stevenson also said all proposed rules and the analyses of them are now available online, and he recommended that committee members go online to read them in that format. He explained that the new language in a rule is underscored and in red, while language being removed from a rule is in blue. Mr. Stevenson explained that committees can vote to reject all or any part of a rule, as long as the rule remains comprehensible after a section is rejected. He also cautioned members that motions to reject portions of a rule need to be very specific so the concurrent resolution is properly formulated.

In response to a question, **Mr. Stevenson** explained that proposed rules are promulgated to the public through the Administrative Bulletin. Agencies are free to engage in negotiated rulemaking or they may choose not to do so. He said there is a minimum time period designated for public comment, and a request can be made to hold a public hearing. He noted that by the time rules get through public comment and discussion, any problems are usually resolved, unless it has not been possible for interested parties to reach consensus.

Chairman Black reminded committee members that Mr. Stevenson is available to help them understand Administrative Rules, and he recommended that members familiarize themselves with the format of all rules. Mr. Stevenson suggested that members might want to read the rules in their online version, since the different colors of text make additions and deletions easier to understand. Asked whether the online versions are able to be annotated, Mr. Stevenson said the rule would have to be downloaded to a computer and then be marked up using Acrobat Reader X.

Chairman Black then explained that in order to help newly elected members become acquainted with the Administrative Rules, he would be assigning each of them as a chairman of a subcommittee, as follows: To study rules from the Division of Building Safety, **Rep. DeMordaunt** and **Rep. Batt**, Co-chairmen, along with **Rep. Palmer** and **Rep. Cronin**. To study rules from the Department of Insurance, **Rep. Guthrie**, Chairman, along with **Rep. Crane** and **Rep. Rusche**. To study rules from the Bureau of Occupational Licenses, **Rep. Barbieri**, Chairman, along with **Rep. Thompson** and **Rep. Smith**. Chairman Black explained that he would recommend the subcommittees visit their respective agencies and have agency personnel explain the proposed rules. Following those visits, each subcommittee should schedule a regular meeting to hear the rules and receive any further testimony on them.

There being no further business to come before the committee, the meeting was adjourned at 2:25 p.m. The committee will not meet on Monday, January 17.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE
DEMORDAUNT SUBCOMMITTEE

Administrative Rules from the Division of Building Safety

1:30 P.M.

Room EW41

Wednesday, January 19, 2011

DOCKET NO.	DESCRIPTION	PRESENTER
07–0103–1001	Electrical Licensing & Registration-General	Steve Keys, Division of Building Safety
07–0104–1001	Electrical Specialty Licensing	Steve Keys
07–0107–1001	Continuing Education Requirements	Steve Keys
07–0205–1001	Plumbing Safety Licensing	Steve Keys
07–0301–1001	Building Safety	Steve Keys
07–0301–1002	Building Safety	Steve Keys
07–0311–1991	Manufactured/Mobile Home Industry Licensing	Steve Keys
07–0402–1001	Safety Rules for Elevators, Escalators, and Moving Sidewalks	Steve Keys
07–0701–1001	Installation of HVAC Systems	Steve Keys

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Reed DeMordaunt

Vice Chairman Gayle Batt

Rep Joe Palmer

Rep Brian Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE
DEMORDAUNT/BATT SUBCOMMITTEE

Administrative Rules from the Division of Building Safety

DATE: Wednesday, January 19, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Co-Chairmen DeMordaunt & Batt, Representatives Palmer, Cronin

ABSENT/ EXCUSED:

GUESTS: Steve Keys, Al Caine, John Nielsen, and Jerry Peterson, Division of Building Safety; Mark Gehrke, Intern; Rod Clay, Plumbers & Pipefitters Union; Dennis Stevenson, Administrative Rules Coordinator; Paul Jackson, Farmers Insurance

Meeting was called to order at 1:30 p.m. by **Chairman DeMordaunt**, who welcomed **Mr. Steve Keys**, Deputy Director of the Division of Building Safety. Chairman DeMordaunt also invited interested members of the audience to testify on the proposed rules if they wished to do so.

Docket No. 07–0103–1001

Mr. Keys presented **Docket No. 07–0103–1001**, which became effective on September 1, 2010. This will bring references with apprentice registration requirements into conformance with previously-adopted statutory changes that eliminated the annual registration and implemented a five-year registration. It will also allow an apprentice who has completed his four years of required schooling and has accumulated at least 6,000 hours of on-the-job experience to take the journeyman exam before he completes his remaining required work experience. If the applicant passes the exam, he must provide evidence of having completed the required on-the-job training before he will be able to apply for a journeyman license. Mr. Keys said this change has been advocated by the industry as well as by the education providers. The changes also clarify that the existing exemption from having to demonstrate specific work experience in different work categories applies only to those apprentices who have been registered in an apprenticeship program approved by the U.S. Department of Labor's Office of Apprenticeship.

MOTION: **Rep. Batt** moved to recommend that **Docket No. 07–0103–1001** be approved by the full committee; **motion carried on voice vote.**

Docket No. 07–0104–1001

Mr. Keys presented **Docket No. 07–0104–1001**, which has also been in effect since September 1, 2010. These new provisions establish an electrical specialty license category for outside wiremen. This category was established in response to requests from participants in the development of wind farms. It recognizes that specially trained personnel other than journeymen and master electricians are equipped in terms of training and experience to construct electrical facilities and lines operating at voltages in excess of 600 volts.

MOTION: **Rep. Batt** moved to recommend that **Docket No. 07–0104–1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 07–0107–1001

Mr. Keys then presented **Docket No. 07–0107–1001**, which modifies the existing continuing education requirements for electricians by stipulating that 16 hours of the previously required 24 hours must be code update related, and the remaining eight hours must be in other industry-related areas.

Responding to committee questions, Mr. Keys said "industry-related" courses can treat such topics as new products, the application of new lighting systems, energy efficiency measures, or any other topic relating to the electrical field, other than updated code requirements. He said the 24–hour continuing education requirement applies to a three-year period, which is an average of eight hours per year; he noted that this is a fairly standard number of hours across the country. Setting the required number of hours is within the purview of the Board, who must consider, among other factors, reciprocal agreements with other states when setting this requirement.

MOTION: **Rep. Palmer** moved to recommend that **Docket No. 07–0107–1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 07–0205–1001 **Mr. Keys** presented **Docket No. 07–0205–1001**, which clarifies requirements for the practical portion of the Plumbing Journeyman exam. This rule stipulates that the practical exam may be administered in a lab setting as well as on a job site. This change was requested by the industry, and the expanded availability of tests has been helpful because of the current lack of construction projects.

MOTION: **Rep. Batt** moved to recommend that **Docket No. 07–0205–1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 07–0301–1001 **Mr. Keys** presented **Docket No. 07–0301–1001**, which was initiated subsequent to an agreement reached last session in the course of the Legislative hearings relating to adoption of the 2009 International Energy Conservation Code (IECC) and the 2009 International Residential Code (IRC). It was promulgated as a temporary and proposed rule with an effective date of January 1, 2011. The effective date was critical to assure that the changes made in this docket would coincide with the effective date of the 2009 energy and building codes. The change in rule recognizes differences between log homes and normal wood frame homes, and establishes alternative requirements that allow for continued construction of log homes within energy requirements. Mr. Keys said other minor changes allowing local jurisdictions to exempt fences under six feet in height from building permit requirements as well as prefabricated swimming pools not more than four feet deep are also incorporated. These changes were brought forward by local jurisdictions. Mr. Keys said he is not aware of any opposition to this proposed rule.

MOTION: **Rep. Palmer** moved to recommend that **Docket No. 07–0301–1001** be approved by the full committee; **motion carried on voice vote.**

Docket No. 07–0311–1001 **Mr. Keys** presented **Docket No. 07–0311–1001**, which re-establishes initial and continuing education requirements for installers of manufactured homes. Prior requirements were removed last year, because the delivery system for the training disappeared with the downturn in the economy. Since the industry association is not able to finance the education effort at this time, the Board has identified an online training program that will satisfy HUD's requirements for installers of manufactured housing, as well as provide a basis for assuring that license holders have received necessary education updates. It was suggested by a committee member that the frequency of the four-hour requirement might need to be spelled out more clearly in the future, and Mr. Keys said he would take note of that suggestion.

MOTION: **Rep. Batt** moved to recommend that **Docket No. 07–0311–1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 07–0402–1001 **Mr. Keys** presented **Docket No. 07–0402–1001**, which clarifies that optional equipment, components, or systems installed on a new elevator must be functional. This would include equipment and components not specifically required by the adopted version of the code in effect when the elevator was placed in service.

MOTION: **Rep. Cronin** moved to recommend that **Docket No. 07–0402–1001** be approved by the full committee; **motion carried on voice vote.**

Docket No. 07–0701–1001

Mr. Keys presented **Docket No. 07–0701–1001**, which was promulgated by the HVAC Board to adopt the 2009 versions of the mechanical codes that form the regulatory basis for mechanical inspection programs in Idaho. Mr. Keys said these updated versions of the code dovetail with the versions of the building and energy codes previously adopted by the Building Codes Board and reviewed by the Legislature; those codes became effective on January 1, 2011. The existing amendments to the mechanical codes remain in place with the approval of this docket.

MOTION: **Rep. Batt** moved to recommend that **Docket No. 07–0701–1001** be approved by the full committee; **motion carried on voice vote.**

Docket No. 07–0301–1002

Mr. Keys presented **Docket No. 07–0301–1002**, which changes the fee basis for building permits and plan reviews as well as the hourly fee for technical service. Building permit fees for those projects in excess of five million dollars ($5,000,000) are significantly reduced by reducing the rate on that portion above $5 million from $3.65 to $2.75 per thousand dollars of value. Any value in excess of $10 million is assessed at $2.00 per thousand dollars of value. Previously all value exceeding $5 million was assessed at $3.65 per thousand.

Mr. Keys also reported that the Division of Building Safety has purchased and implemented new software to facilitate the plan review process. This software facilitates the electronic submission and exchange of plans and project documentation. It eases the review process, cuts down significantly on postage and handling fees, and greatly enhances the exchange of information among plan reviewers, the project owner, the design team, and inspectors in the field.

As a result of the new efficiencies, the basis for plan review fees has been changed, from a flat 65% of the calculated building permit fee to an hourly fee of $100 with a minimum fee of 40% of the calculated building permit fee. Mr. Keys said in most cases the minimum fee will cover the cost of providing the plan review; the exception may be in those rare cases involving multiple changes after the initial submission of plans.

Mr. Keys said the technical service fee changes from $36 per hour to $100 per hour, and forms the basis for the hourly fee for the plan review process. The $100 fee accurately reflects the cost of employing qualified individuals to perform the reviews, costs for continuing education and other education for those people, the costs of purchasing and maintaining specialized software, management and administrative support, and overhead expenses associated with the program. Mr. Keys said on a $10 million project, the projected reduction in fee will be about $4,000; on a $20 million project, the fee will be reduced by over $12,000.

Responding to committee questions, **Mr. Keys** said previously there was no hourly rate for plan reviews; rather, the charge was a flat 65% of the calculated building permit fee. He said unless the hourly fee amount exceeded the 40% flat fee, there would be no additional charge. He agreed that the new fee schedule would be advantageous to larger projects, but said it represents no detriment to smaller projects. In terms of plan review charges, he said all size projects would benefit. Mr. Keys said it is difficult to assess the effect of the new rules on the Division's revenue stream since there are not many plans being submitted for review at this time.

MOTION: **Rep. Palmer** moved to recommend that **Docket No. 07-0301–1002** be referred to the full committee without recommendation; **motion carried on voice vote.**

Chairman DeMordaunt thanked Mr. Keys for his testimony and complimented the Division for its sensitivity to current economic conditions as they adjusted their programs and fees.

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

Representative Reed DeMordaunt
Co-Chairman

MaryLou Molitor
Secretary

Representative Gayle Batt
Co-Chairman

AGENDA

HOUSE BUSINESS COMMITTEE

3:00 P.M.

J.R. Williams Building - 700 West State Street, Third Floor Conference Room 3A

Wednesday, January 19, 2011

PLEASE NOTE MEETING LOCATION

SUBJECT	DESCRIPTION	PRESENTER
	Overview of 2010 Insurance Legislation and Other Issues	Director Bill Deal Department of Insurance

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Wednesday, January 19, 2011

TIME: 3:00 P.M.

PLACE: J.R. Williams Building - 700 West State Street, Third Floor Conference Room 3A

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick (Patrick), Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Rep. Crane

GUESTS: Bill Deal, Director, and Shad Priest, Deputy Director, Department of Insurance;

Meeting was called to order at 4:00 p.m. by **Chairman Black**, who introduced **Bill Deal**, Director of the Department of Insurance and a former member of the House Business Committee. He said he had asked Director Deal to update Business Committee members on the new health care law, how it will impact Idaho, and what might be expected in the future. to this point. Chairman Black noted that after his attendance at a National Association of Insurance Commissioners meeting, he perceived that no one really has adequate information about the coming changes in health care law.

Director Deal assured the committee that his door is open to Legislators if they need help with insurance issues. He said he intends to give a brief overview of the Department, including its mission and its operations, and will then ask Shad Priest, Deputy Director, to apprise members on the national health care reform legislation. Director Deal said the mission of his department is to regulate the insurance industry in Idaho, which includes regulation of life and health, property/casualty companies, bond agents, claims agents, and others. He said their overall goal is to provide superior service to their customers, the insurance companies, producers, and consumers. The number of employees at the department has been reduced by three since Director Deal took over; the current number of statewide employees is 71, of which 60 are in Boise and the others are at regional offices in Coeur d'Alene, Idaho Falls, Twin Falls, and Pocatello. Efficiencies resulting from more reliance on electronic databases have enabled the department to function with fewer employees.

According to Director Deal, one of the busiest sections of the department is producer licensing. at the close of 2010, there were 76,521 insurance producers licensed in Idaho, with most of the newly-licensed producers being non-residents. Of the agents licensed in Idaho, only 11,590 are domiciled in the state. He said the goal of this department is to convert totally to electronic functioning, and they are at 95% at the present time. There are five staff members to oversee all producer licensing plus the continuing education requirements for producers.

Mr. Deal commented on some of the operations of the Rates and Forms division, which has a four-member staff. He also explained that the Department examines individual insurance companies every five years. In 2010 United Heritage, Blue Cross, American Farmers & Ranchers, and other companies were examined, and all were in full compliance with statutes. Mr. Deal said the department works on three to four annual examinations at a time; each exam takes about six months to complete. Currently, ICRMP, Regence Blue Shield, and Farmers Insurance are being examined.

The Director talked about Idaho's Senior Health Insurance Benefit Advisors (SHIBA), noting that this department counseled almost 20,000 senior citizens. The SHIBA program uses a network of about 300 volunteers across the state. The Department of Insurance's Consumer Affairs department deals with 80 to 90 written complaints per month; last year they handled 885 complaints. Their policy is to contact the originator of a complaint within 24 hours, if possible, either by phone or by written communication. The Consumer Affairs department fields 7,500 phone calls each year. In the past year, they made 357 referrals for fraud investigations, of which 34 resulted in a full investigation. The Department of Insurance also has a State Fire Marshal division which is called in to help with investigations if a county or municipality requests it. Director Deal said there has been a significant increase in fire investigations, including arson cases.

Responding to questions from the committee, Mr. Deal affirmed that individuals working in call centers, if they are selling insurance products in the state of Idaho, are required to be licensed as an insurance producer. Call center personnel who are not directly involved in selling insurance, such as receptionists, are not required to be licensed.

Director Deal explained that the revenue generated by the Department of Insurance comes from two sources, namely, premium tax and fees. The department's overall operational budget is funded by the $7.4 million in fees that are collected. Idaho's general fund receives about $80 million from premium taxes each year, and Chairman Black noted that this is the fourth highest amount contributed to the general fund. Mr. Deal said the premium tax had been reduced to 1.5% by the spring of 2010. He said it his impression that property/casualty insurance premium taxes generate the highest amount of revenue. He also said that, in terms of premium taxes collected in the United States, Idaho's amount is only six-tenths of one percent of the total.

Because there have been inquiries concerning the Utah Exchange, Director Deal briefly explained that the Utah Exchange is not going to meet the requirements for the new health care exchanges. He said Utah has found it difficult to get companies to choose the exchange. Utah passed legislation creating a health care exchange prior to the new federal health reform measures were enacted. Director Deal said the major goal of the reform is to create health exchanges in each state which in theory will provide a consistent product that will be more cost efficient and effective. In an exchange, companies can be chosen by a state and approved by Health & Human Services (HHS). Mr. Deal said there are certain advantages to health exchanges. For instance, spouses working for different employers would be able to buy one policy if their employers take part in an exchange. He said that, in general, the exchange idea will not replace what we have in place.

Mr. Deal reported that the Department of Insurance has two pieces of legislation for the 2011 session. One of them deals with funding sources to pay for vaccines. This program is funded from an assessment on health insurance companies and administered by the Department of Insurance. To date, $10,000,000 has been collected from these assessments, but the original legislation did not allow any of the funds to be used for administrative costs. This oversight needs to be corrected with legislation this year. The second bill deals with an independent external review bill passed a couple of years ago, which allows an insured whose claim has been denied to request a second review. This process needs to be brought more into compliance with requirements of HHS.

In response to a question from the committee, Director Deal said Idaho had received two separate federal grants, totaling about $2 million. He introduced Shad Priest, Deputy Director of the Department of Insurance, who has been assigned to oversee the health care reform process and its coordination with the Department of Health & Welfare for the state of Idaho. Mr. Priest gave more detail about the two federal grants that were intended to assist in the implementation of health care reform. One of them will fund a health insurance premium rate review, while the other is intended to assist in setting up a health insurance exchange.

Mr. Priest said the health insurance exchange envisioned under the federal legislation is much more complex, with much greater requirements, than was initially anticipated by the Department. He listed some of the things the exchange is expected to do, including: 1) develop an internet website to facilitate the purchase of insurance; 2) provide for initial open enrollment, annual enrollment, and special open enrollment periods; 3) provide a web-based calculator that will figure out the cost of insurance after any applicable tax subsidies or federal programs are applied; 4) determine whether employees are eligible for premium tax credit in certain circumstances. The exchanges have to provide a list of people who should be eligible for premium tax credit because their employers didn't provide health insurance, notify employers and Treasury of exemptions in enrollments, and establish a navigator program. The exchanges are supposed to be self-sustaining by January 1, 2015, and average fees and costs are to be published on a website.

Responding to questions from the committee, Mr. Priest said the $1 million grant is to be used strictly for planning an exchange, but not for purchasing IT systems. He said $1 million is clearly not adequate to set up an exchange, noting that Health & Welfare just developed a new system for Medicaid eligibility screening that cost around $25 million. In Mr. Priest's opinion, no states have the financial resources to put a new system in place without federal money. Federal legislation is anticipated next year that will define what the exchange will look like, how it will be governed, and whether it will be approved by state legislatures. States have to have their exchanges ready by 2012, and in 2013 Health & Human Services will look at each state's system to determine if it can be operational by 2014. If not, the federal government will implement an exchange for the state, so if Idaho does not successfully design an exchange the federal government will build one for us.

Mr. Priest discussed the possibility of regional exchanges that would allow cooperation among states, but said although the Idaho Department of Insurance had floated the idea at a recent meeting, they did not receive any indication of interest from other states. He said there is some concern about selling products across state lines; in addition, questions would have to be resolved about which market standards would apply. It would seem, though, that states could have some kind of sharing arrangement to handle IT functions, for instance.

Mr. Deal noted that the new governor of Wyoming had directed his Department of Insurance to survey western states about a regional cooperative arrangement, but Idaho was the only one to respond positively. He also agreed that if a state does not successfully implement an exchange and the federal government puts one in place, there could be some preemption of the state's ability to collect premium taxes.

Director Deal testified that his department is proceeding with the planning and implementation stages necessitated by the federal health care legislation because at this point it is the law of the land. He said Idaho must stay flexible, though, in consideration of pending lawsuits and the new Congress. Deadlines that are already set up still need to be met. He said once the department finishes this preparatory work, the plan will be submitted to the Governor and he will do what he wants with it.

Chairman Black thanked Mr. Deal and Mr. Priest for the useful information on the new health care law and invited the Department of Insurance to visit the Business Committee at any time. He announced that the committee would not meet again until Tuesday, January 25.

There being no further business to come before the committee, the meeting was adjourned at 4:05 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE
GUTHRIE SUBCOMMITTEE

Rules from the Department of Insurance

1:15 P.M.

Room EW41

Tuesday, January 25, 2011

DOCKET NO.	DESCRIPTION	PRESENTER
	Department of Insurance Administrative Rules:	Bill Deal, Director
18–0104–1001	Bail Agents	
18–0105–0901	Health Carrier External Review	
18–0147–1001	Valuation of Life Insurance Policies; Introduction & Use of New Select Mortality Factors	
18–0150–1001	Adoption of 2006 International Fire Code	
18–0153–1001	Continuing Education	
18–0166–1001	Director's Authority for Companies Deemed to be in Hazardous Financial Condition	
18–0177–1001	Actuarial Opinion and Memorandum Rule	
18–0179–1001	Preferred Mortality Tables for use in Determining Minimum Reserve Liabilities	

COMMITTEE MEMBERS

Chairman Jim Guthrie

Rep Brent Crane

Rep John Rusche

COMMITTEE SECRETARY

MaryLou Molitor

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MINUTES

HOUSE BUSINESS COMMITTEE
GUTHRIE SUBCOMMITTEE
Rules from the Department of Insurance

DATE: Tuesday, January 25, 2011

TIME: 1:15 P.M.

PLACE: Room EW41

MEMBERS: Chairman Guthrie, Representatives Crane, Rusche

ABSENT/ EXCUSED: None

GUESTS: Jim Genetti, Idaho Association of Health Underwriters; C. J. Nemeth, Professional Bail Agents of Idaho (PBAI); Shad Priest and Dale Freeman, Idaho Department of Insurance; Ed Hawley, Administrative Rules; John Duvall, Accredited Surety; Jonna Duvall, PBAI; Scott Williams, Lexington National; Staci Freeman, PBAI; Amy Holly, Sullivan Reberger Eiguren

Chairman Guthrie called the meeting to order at 1:15 p.m. and announced that the subcommittee would hear Administrative Rules from the Department of Insurance. He stated that subcommittee members can make one of three recommendations with regard to these rules, namely: recommend adoption, recommend rejection, or recommend adoption in part.

Shad Priest, Deputy Director of the Department of Insurance, appeared before the subcommittee to present the Department's rules. Mr. Priest asked permission to hold consideration of **Docket No. 18-0150-1001**, dealing with the adoption of the 2006 International Fire Code, until the end of his presentation.

Docket No. 18-0104-1001

Mr. Priest presented **Docket No. 18-0104-1001**, changes to the rules governing bail agents. Mr. Priest said Idaho adopted laws in 2003 regulating bail agents, and the current proposed rules further refine that law. Mr. Priest said the rule changes are based on comments received from the industry. The new rule identifies grounds for immediate suspension of a bail agent license and clarifies the duties and responsibilities of bail agents doing business in Idaho. Some significant items are: 1) a requirement for a criminal background check every two years as a condition of license renewal; 2) a requirement to notify the Department of Insurance when an agent's contact information changes; and 3) the addition of a withheld judgment or a *nolo contendere* plea as grounds to revoke a license. Mr. Priest said the new rules had been circulated among members of the bail community as well as court representatives.

Mr. Priest stated that one section of the rule, which discusses allowable bail agent charges and fees, has received some opposition from one bail agency. He said this rule clarifies that any charges associated with returning a defendant to custody if the defendant fails to appear must be negotiated separately from the bail bond transaction. Explaining the reasoning behind this rule change, Mr. Priest said most people enter into bail bond contracts at stressful times, and often they are not familiar with this type of contract. Some contracts include language about recovering costs associated with returning a defendant, and these costs can run into thousands of dollars.

Responding to committee questions, Mr. Priest said there have been preliminary discussions about legislation that could limit these charges to a percentage of the bail amount, or to an amount not to exceed the bail amount. However, this would not be permissible under existing law so Idaho Code would need to be changed before such a provision could be enacted.

MOTION: **Rep. Rusche** moved to recommend that **Docket No. 18-0104-1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 18-0105-0901 **Mr. Priest** presented **Docket No. 18-0105-0901**, which implements the Idaho External Review Law adopted in 2009. Mr. Priest explained that this law provides the right to have an independent third party review a denial of a health insurance claim. He said the rule sets standards for independent review organizations and establishes reporting and other requirements. Mr. Priest testified the Department has received no comments in opposition to this rule.

MOTION: **Rep. Crane** moved to recommend that **Docket No. 18-0105-0901** be approved by the full committee; motion carried on voice vote.

Docket No. 18-0147-1001 **Mr. Priest** presented **Docket No. 18-0147-1001**, dealing with valuation of life insurance policies including the introduction and use of new select mortality factors. He testified this rule is patterned after model rules adopted from the National Association of Insurance Commissioners (NAIC), and the changes are being made to bring Idaho into conformance with national standards.

Mr. Priest explained that the NAIC model rulemaking process is extensive and includes involvement by all 50 states as well as the District of Columbia. With regard to this specific rule, Mr. Priest said the changes were drafted by a group of life actuaries working with industry representatives, then voted on by a committee of representatives from various states, and finally reviewed and approved by the full body of state insurance regulators. He testified that the Department is not aware of any opposition to the rule changes, which are supported by Idaho's only domestic insurance company, United Heritage Life Insurance Company.

MOTION: **Rep. Rusche** moved to recommend that **Docket No. 18-0147-1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 18-0153-1001 **Mr. Priest** presented **Docket No. 18-0153-1001**, which proposes two changes to existing continuing education requirements for insurance producers. First, the new rule eliminates the stipulation that the required three-credit ethics course be a stand-alone course; instead, the ethics credits can be earned as part of a course that includes non-ethics credits. Second, a producer taking an online course will have to demonstrate a score of 70% or higher on individual units of study before he or she is allowed to continue to the next succeeding unit. Courses taken via hard copy, rather than via internet, will now include an explanation that each unit should be completed before progressing to the next unit. Mr. Priest said there has been no opposition to these proposed changes.

MOTION: **Rep. Crane** moved to recommend that **Docket No. 10-0153-1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 18-0166-1001

Mr. Priest presented **Docket No. 18-0166-1001**, which sets forth the standards the director may use to identify insurers deemed to be in hazardous financial condition and the actions he may take to address the problem. He explained that the Department is required to take corrective action if a company's financial condition is such that it may not be able to meet its obligations to policyholders and creditors. Mr. Priest said the proposed changes reflect changes made to model regulation by the National Association of Insurance Commissioners (NAIC). Since this rule will likely become an NAIC accreditation standard for states, it is important that Idaho maintain consistency with the model. Mr. Priest said there is no opposition to these changes.

MOTION: **Rep. Rusche** moved to recommend that **Docket No. 18-0166-1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 18-0177-1001

Mr. Priest presented **Docket No. 18-0177-1001**, a rule that sets out actuarial standards that must be followed by insurers offering life insurance products. Again, it is based on a model rule developed by the NAIC, and adoption will ensure consistency with other states and simplify regulatory compliance for insurers that operate in multiple states. Mr. Priest said the changes remove some outdated language and make other technical changes. He said the Department has not received any comments in opposition to the changes.

MOTION: **Rep. Crane** moved to recommend that **Docket No. 18-0177-1001** be approved by the full committee; **motion carried on voice vote.**

Docket No. 18-0179-1001

Mr. Priest presented **Docket No. 18-0179-1001**, another rule change relating to actuarial standards for life insurance products. This change will allow the Director to approve the use of 2001 mortality tables for policies issued between January 1, 2004 and January 1, 2007, under certain circumstances. The Department knows of no opposition to this rule.

MOTION: **Rep. Rusche** moved to recommend that **Docket No. 10-0179-1001** be approved by the full committee; **motion carried on voice vote**.

Docket No. 18-0150-1001

With regard to **Docket No. 18-0150-1001**, **Rep. Crane** reported that he had been contacted by a constituent with concerns about this proposed rule. Rep. Crane said he would appreciate an opportunity to further investigate the concerns before any subcommittee action is taken on this rule.

MOTION: **Rep. Crane** moved to **HOLD Docket No. 18-0150-1001**, subject to the call of the Chair; **motion carried on voice vote**.

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

Representative Jim Guthrie
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE

Upon Adjournment of Guthrie Subcommittee on Rules
Room EW41
Tuesday, January 25, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS 20095	Revised Uniform Unincorporated Nonprofit Association Act; Amendments & Corrections	Dale Higer
Docket No:	**Board of Professional Engineers & Professional Land Surveyors:**	Dave Curtis
10–0101–1001	Rules of Procedure	
10–0102–1001	Rules of Professional Responsibility	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
Phone: (208) 332-1139
email: mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Tuesday, January 25, 2011

TIME: Upon Adjournment of the Guthrie Subcommittee

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Representative(s) Crane, Thompson, Cronin

GUESTS: Dale Higer, Uniform Law Commission; David Curtis, Board of Professional Engineers and Professional Land Surveyors; John Eaton, Idaho Association of Realtors

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

MOTION: **Rep. Bilbao** moved to approve the minutes of January 19, with the following corrections: At the bottom of page 1, the word "Shiled" should be "Shield," and on page 3, the word "jus" should be "just." **Motion carried on voice vote**.

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

RS 20095 **Dale Higer**, Chairman of the Commission on Uniform State Laws, presented **RS 20095**, a revision of the Uniform Unincorporated Nonprofit Association Act of 1996. Mr. Higer explained that the original act allowed nonprofit associations to have identities separate and apart from their members and to hold property in the name of the association. It provided limitation of liability of members while permitting the association to incur liabilities in its own name. Mr. Higer testified that **RS 20095** provides additional guidance, incorporating modern practices and eliminating potential conflicts with other law. Mr. Higer said he is not aware of any opposition to this legislation.

MOTION: **Rep. Collins** moved to introduce **RS 20095**; **motion carried on voice vote**.

Docket No. 10-1010-1001 **Dave Curtis**, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **Docket No. 10-0101-1001**. Mr. Curtis said the rules will allow initial licensing as a professional engineer through use of the Structural Engineer examination without having to first be licensed as a professional engineer in another discipline and without requiring an additional two years of experience, as currently required. He said the change recognizes that the practice of structural engineering has become distinct from other disciplines such as civil engineering, from which it developed. The rule will also allow the details of investigations to be released to law enforcement agencies and licensing entities in other jurisdictions.

Responding to committee questions, Mr. Curtis said 38 jurisdictions, including Idaho, do not license engineers by discipline. Licensed engineers are allowed to practice in any area, even though they may have a discipline associated with their names. Mr. Curtis said the Board is not creating a new title and is not disenfranchising anyone by this new rule.

MOTION: **Rep. Rusche** moved that **Docket No. 10-0101-1001** be approved by the committee; **motion carried on voice vote**.

Docket No. 10-0102-1001

Mr. Curtis presented **Docket No. 10-0102-1001**, dealing with rules of professional responsibility. He said the Board undertook negotiated rulemaking prior to publishing these proposed rules. The purpose of this rule change is to require that licensees be prompt in written responses to the Board. Mr. Curtis said this change will assure that the Board can conduct investigations and inquiries in a timely manner as required by law.

Responding to a question about the necessity of such a rule, Mr. Curtis said there are always some people who are not willing to cooperate with authorities, and if those people choose to not respond to a request from the Board, the Board is not able to meet its statutory obligation to hold a hearing within six months of a complaint. This rule is an attempt to provide an incentive for timely responses to requests.

MOTION

Rep. Rusche moved that **Docket No. 10-0102-1001** be approved by the committee; **motion carried on voice vote**.

ADJOURN

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Thursday, January 27, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS20003	Engineers & Land Surveyors Board	Dave Curtis, Prof. Engineers & Prof. Land Surveyors
RS19955	Electrical Apprentices; Registration Requirements	Steve Keys, Division of Building Safety
RS19961	Elevator Safety Code Act; Temporary Certificates	Steve Keys
RS19962	HVAC Board; Compensation & Terms	Steve Keys
RS19975	Electrical Inspectors; Requirements	Steve Keys
RS19978	Electrical Board Members' Compensation	Steve Keys
RS20007C1	Plumbing Board, State Plumbing Code	Steve Keys

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Thursday, January 27, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith (30), Rusche, Cronin

ABSENT/ EXCUSED: Chairman Black, Rep. Bayer

GUESTS: Steve Keys, Al Caine, Jerry Peterson, Patrick Grace, and John Nielsen, Division of Building Safety; Rod Clay, Plumbers & Pipefitters; Mark Gehrke, Intern; Cindy Hedge, AFL-CIO

Meeting was called to order at 1:30 p.m. by Vice Chairman Henderson, in the absence of Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of January 25; **motion carried on voice vote**.

MOTION: **Rep. Rusche** moved to approve the minutes of the Guthrie Subcommittee meeting of January 25; **motion carried on voice vote**.

RS 20003 **Dave Curtis**, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **RS 20003**. Mr. Curtis said this legislation attempts to reconcile a number of issues relating to Idaho's surveying laws. First, it will establish consistent definitions throughout the Code in terms of surveying. Second, it will require professional land surveyors to monument corners and to record the survey under certain conditions. Third, it will require perpetuation of original evidence of the location of a corner, using markers that meet current statutory requirements. Mr. Curtis said often these markers are stones or charred posts, which are not magnetically detectable. Fourth, it will allow the setting of witness corners or reference points in lieu of reestablishing the original monument after it has been disturbed by construction. Fifth, it will continue to protect property controlling corners and accessories, and will add a requirement to protect points set in control surveys and benchmarks. Mr. Curtis explained that most surveys and monuments are land survey monuments, but there are also control points that set elevations. Those are currently not required to be protected if disturbed or destroyed by construction. Sixth, the legislation will clarify the requirements of a highway right-of-way plat. Mr. Curtis said numerous ambiguities exist in current statute; the Idaho Transportation Department sought this in order to ease and clarify the recording and acquisition of rights-of-way. Finally, the legislation will correct an error in the requirement that surveys be conducted to a predetermined minimum accuracy.

MOTION: **Rep. Patrick** moved to introduce **RS 20003**; **motion carried on voice vote**.

RS 19955 **Steve Keys**, Deputy Director of the Division of Building Safety, presented **RS 19955**. Mr. Keys explained that this legislation clarifies the basis for registration of electrical apprentices and specifies that the electrical board is empowered to establish education and work requirements that must be satisfied to renew a registration. The board is moving from a system requiring enrollment in schooling at all times to one that requires that an apprentice demonstrate he has satisfied specific milestones in terms of education and experience to accomplish his renewal.

Responding to committee questions, Mr. Keys said the change needed to be made because many people are out of work and unable to attend classes and gather experience. He said the Board has moved toward a five-year registration period, and in order to renew for an additional five-year period, an apprentice will only need to show he has completed at least two years of school and a certain number of hours of experience during the previous five-year period.

MOTION: **Rep. Crane** moved to introduce **RS 19955**; **motion carried on voice vote**.

RS 19961 **Mr. Keys** presented **RS 19961**. This proposal addresses an existing conflict in Idaho Code that allows the elevator owner and the Division to enter into a compliance agreement where practicalities limit the ability of the owner to correct discrepancies, but then limits the issuance of a temporary certificate to operate to one non-renewable 60-day period. The change allows the agency to determine the expiration date of the temporary certificate depending on the circumstances. It also changes the existing language relating to a “permanent” certificate to operate to accurately reflect the five (5) year term of the certificate to operate.

MOTION: **Rep. Collins** moved to introduce **RS 19961**; **motion carried on voice vote**.

RS 19962 **Mr. Keys** presented **RS 19962**. He testified the legislation changes the basis of compensation for board members from a salary to an honorarium. There is no change in the amount of the compensation, but the honorarium status allows board members to continue to contribute to their own retirement accounts. This proposal also enacts one-time adjustments to the terms of board members to address the fact that currently five of the seven board members are appointed in the same year.

Responding to a question from the committee, Mr. Keys said he is not aware of any negative fiscal impact; in fact, there will probably be a small positive impact because the state would no longer make contributions to the PERSI account.

MOTION: **Rep. Thompson** moved to introduce **RS 19962**; **motion carried on voice vote**.

RS 19975 **Mr. Keys** presented **RS 19975**, noting that this RS deals with requirements for electrical inspectors. He said the proposal was brought forward by the electrical board, with the support of the industry and many local jurisdictions. It establishes a new baseline qualification for electrical inspectors in the state. The change would require all electrical inspectors hired after July 1, 2013, to be licensed as master electricians by the Division of Building Safety. It would also require that all electrical inspectors achieve certification as an electrical inspector within six months of their date of hire; currently that requirement only applies to state inspectors.

Responding to committee questions, Mr. Keys said that current law requires a holder of an electrical contractor's license to either be a master electrician or employ one. From an industry perspective, it is felt that inspectors should be at least as qualified as the contractors for whom they are performing the inspections. Mr. Keys said there currently is not an adequate number of master electricians to fill the need for inspectors, and that is the reason for the delay in implementation of the new requirement. He said he is not aware of any resistance at this point from local jurisdictions.

Al Caine, Electrical Program Manager for the Division of Building Safety, was asked to respond to further questions. He said out of 27 electrical inspectors, five are master electricians. Mr. Caine pointed out that the new requirement applies only to those hired after July 2013. He said the goal of the Division is to have all electrical inspectors achieve master electrician license and certification within the upcoming year, and they are confident that will happen. Mr. Caine said the electricians will not personally bear the cost of becoming master electricians because the Division will incur that as an employment benefit. He said there is an application fee of $15, and the designation on their licenses will be changed from "J" to "M". The only external cost is a $100 license exam per electrical inspector.

Mr. Keys said the new requirement will not affect existing employees. He said the new requirement has been set as a goal and a performance issue. Mr. Keys explained that in order to earn designation as a master electrician, a person must have four years' experience as a journeyman and pass the master electrician exam. The initial educational experience is the same asthat of a journeyman electrician.

Asked about the situation in small towns who do not have an electrical inspector, Mr. Keys said a city or town can choose to have its own inspection program and maintain it. Any city or town without an inspection program comes under the jurisdiction of the Division of Building Safety. Mr. Keys was asked whether the higher qualification of being a master electrician might require that inspectors be paid a higher wage; he responded that this could be a possibility. He stated that as of July 2008, due to changes in the law, an electrical contractor licensee is required to hold a master electrician's license or employ a master electrician. Mr. Keys said this change was made in order to ensure that electrical work done by an electrical contractor will be done correctly. He said it is also a matter of reciprocity with surrounding states.

MOTION: **Rep. Collins** moved to introduce **RS 19975**.

SUBSTITUTE MOTION: **Rep. Crane** offered a **substitute motion**, to return **RS 19975** to its sponsor. Explaining his substitute motion, Mr. Crane said he has significant concerns that rural jurisdictions may not be able to find qualified individuals to serve as electrical inspectors. He said currently only 20% of state inspectors meet the higher qualification standards, and that percentage needs to be increased.

VOTE ON SUBSTITUTE MOTION: **Chairman Henderson** called for a vote on the substitute motion, to return **RS 19975** to sponsor; **motion failed on voice vote**.

VOTE ON ORIGINAL MOTION: **Chairman Henderson** called for a vote on the original motion, to introduce **RS 19975**; **motion carried on voice vote**. **Reps. Crane, Palmer, and Barbieri** requested that they be recorded as voting no.

RS 19978 **Mr. Keys** presented **RS 19978**. He testified that this legislation, like that discussed earlier regarding the compensation of HVAC board members, would change the basis of the compensation from a salary to an honorarium in order to allow members to contribute to their individual retirement accounts.

In response to a question from the committee, Mr. Keys apologized for the misunderstanding stemming from the fiscal note on the statement of purpose, and clarified that there could actually be a slightly positive fiscal impact because the state will no longer contribute to the PERSI fund on behalf of board members.

MOTION: **Rep. Collins** moved to introduce **RS 19978**; **motion carried on voice vote**.

RS 20007C1 **Mr. Keys** presented **RS 20007C1**. This proposal from the Plumbing board would establish the Idaho State Plumbing Code (ISPC) as the basis for regulation of plumbing installation in Idaho. While the basis for the Idaho State Plumbing Code (ISPC) remains primarily the Uniform Plumbing Code (UPC), the code has been modified to incorporate some more liberal requirements from the International Plumbing Code (IPC) used in other jurisdictions. The ISPC also incorporates provisions that were currently addressed as amendments in IDAPA into the printed code. As a result, the plumber doesn't need to look at multiple sources to determine requirements. The code book will also include statutes and administrative rules applicable to plumbing in Idaho. The book will be published in loose-leaf format, so it will accommodate updates and changes without the necessity to replace the entire book.

Milford Terrell, Chairman of the State Plumbing Board, was recognized to offer testimony and respond to questions on **RS 20007C1**. Mr. Terrell stated that most of the Idaho Plumbing Code is made up of the Uniform Plumbing Code, with about 10% of it being provisions of the International Code. Mr. Terrell said he does not believe that adoption of the Idaho State Plumbing Code (ISPC) will negatively affect reciprocal agreements with surrounding states. He said he does not believe that a similar measure is currently envisioned by the Electrical, HVAC, or Fire code divisions, but he thinks adoption of the ISPC could serve as a trial balloon for these other divisions.

Mr. Keys testified that the new ISPC will be available in a digital format and that the hard-copy version will be published by the same entity that publishes the Uniform Plumbing Code. He said online or electronic versions are not currently available, but access to the codes is always available to any interested party in any Division of Building Safety office across the state.

MOTION: **Rep. Thompson** moved to introduce **RS 20007C1**; **motion carried on voice vote**.

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

Representative Frank Henderson
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE
GUTHRIE SUBCOMMITTEE

Rules from the Department of Insurance

1:15 P.M.

Room EW41

Monday, January 31, 2011

DOCKET NO.	DESCRIPTION	PRESENTER
18-0150-1010	Adoption of 2006 International Fire Code	Mark Larsen State Fire Marshal

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Jim Guthrie

Rep John Rusche

Rep Brent Crane

COMMITTEE SECRETARY

MaryLou Molitor

Room: EW58

Phone: (208) 332-1139

email: mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE
GUTHRIE SUBCOMMITTEE

Administrative Rules from the Department of Insurance

DATE:	Monday, January 31, 2011
TIME:	1:15 P.M.
PLACE:	Room EW41
MEMBERS:	Chairman Guthrie, Representatives Crane, Rusche
ABSENT/ EXCUSED:	None.
GUESTS:	Mark Larsen, State Fire Marshal; Dennis Stevenson, Administrative Rules Coordinator
	Meeting was called to order at 1:20 p.m. by Chairman Guthrie, who announced that the subcommittee would review one final docket from the Department of Insurance.
Docket No. 18-0150-1010:	**Mark Larsen**, State Fire Marshal, presented **Docket No. 18-0150-1001**, adoption of the 2009 edition of the International Fire Code. Mr. Larsen explained this rule includes language to deal with driveway requirements for single family residences. The language was developed as the result of a "fire code task force" organized following last year's legislative session. He explained that the proposed rule reflects and clarifies changes in statute, and addresses driveways, turnarounds, and water supply in rural areas. It also contains editorial changes.
MOTION:	**Rep. Crane** moved to recommend that **Docket No. 18-0150-1001** be approved by the full committee. Rep. Crane explained that if the rule is approved, a temporary rule can be written to include an exemption from the requirement to have fire extinguishers in schools or businesses that have fast-acting sprinkler systems, and Mr. Larsen had assured him this would be done.
VOTE ON MOTION:	**Chairman Barbieri** called for a vote on the motion to recommend approval of **Docket No. 18-0150-1001**; motion carried on voice vote.
	There being no further business to come before the subcommittee, the meeting was adjourned at 1:27 p.m.

Representative Jim Guthrie
Chair

MaryLou Molitor
Secretary

AMENDED #1 AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Monday, January 31, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS19943	Barber Colleges; Course of Instruction	Roger Hales, Bureau of Occup. Licenses
RS19957	Real Estate Appraisers Act; Continuing Education Providers	Roger Hales
RS20004	Cosmetology Board; Authority to Discipline and Sanction	Roger Hales
	Fraud Prevention Presentation	Bill Deal, Director Dept. of Insurance

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Monday, January 31, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith (30), Rusche, Cronin

ABSENT/ EXCUSED: Chairman Black, Representative Smith (30)

GUESTS: Roger Hales, Bureau of Occupational Licenses; Dale Dixon, Better Business Bureau; Tricia Carney, Department of Insurance; Michael Mulcanery and Jim Trent, State Farm Insurance; Ann Burquist, Pacific Source-Fraud Coalition; Dan Roberson, Department of Insurance; Jerry Carney, Boise Adjuster-Fraud Coalition; Mark Gehrke, Intern; Tony Smith, Benton & Ellis; Les Lake, Eide Bailey; Miguel Legarreta, Realtors; Colleen Van Winkle, Department of Insurance; Anne Lorenz, NAIFA Idaho

Meeting was called to order at 1:35 p.m. by **Vice Chairman Henderson**, in the absence of Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of January 27; **motion carried on voice vote**.

RS 19943: **Roger Hales**, attorney representing the Bureau of Occupational Licenses, presented **RS 19943**, which clarifies the course of instruction for barber colleges. Mr. Hales testified that this legislation requires a barber college's curriculum to include both Idaho law and the rules of the barber board.

MOTION: **Rep. Cronin** moved to introduce **RS 19943; motion carried on voice vote**.

RS 19957: **Mr. Hales** presented **RS 19957**, which will establish a fee that the Real Estate Appraiser Board can charge to review and approve applications from continuing education course providers. Mr. Hales said last year the Board reviewed close to 120 applications from these course providers. He stated these providers are accustomed to paying fees to states for this approval process, and all surrounding states already charge a fee for this service.

Responding to committee questions, Mr. Hales said the amount of the fee varies somewhat from state to state; Oregon charges between $50 and $100, while Montana's fee is $300. Most surrounding states charge between $50 and $100. He stated the legislation does not set a specific fee; rather, it will allow the Board to set the fee later by rule.

Asked whether a higher fee might reduce the number of applications by course providers, Mr. Hales said that would be difficult to project, although he believes that will not happen. He testified some applicants are already submitting checks with their applications, thinking that Idaho charges a fee. Since the continuing education providers charge licensees to take their courses, their revenue will far exceed any application fee that might be required.

MOTION: **Rep. Thompson** moved to introduce **RS 19957; motion carried on voice vote**.

RS 20004: **Mr. Hales** presented **RS 20004**, which provides flexibility to the Cosmetology Board concerning the types of discipline it can impose on licensees. Mr. Hales said the Board can currently revoke or suspend licenses or impose fines, as well as potentially recover costs and fees. This legislation will allow some flexibility to impose other types of discipline, such as requiring additional education. He noted that allowing the Board to consider action against a licensee who has been involved in disciplinary action in another state is fairly common, especially with licensees working near the borders of states, who may likely hold licenses in neighboring states as well.

Asked why the phrase "immoral" is being stricken, Mr. Hales said an attempt is made to remove archaic language when a section of code is being changed or updated. Since the Board has defined by rule what constitutes "unprofessional" conduct, it is felt that the term "immoral" is unnecessary.

MOTION: **Rep. Cronin** moved to introduce **RS 20004; motion carried on voice vote**.

Bill Deal, Director of the Department of Insurance, was recognized to present information on the Department's fraud prevention efforts. Mr. Deal told the committee about the **Idaho Fraud Awareness Coalition**, formed in 2008 at the behest of the Department. Mr. Deal explained that the task force brings together the resources of insurance companies, law enforcement, and the financial industry in a coordinated effort to educate the public about the cost of fraud to individuals and the impact of fraud on retailers and consumers.

Mr. Deal said the key issue in preventing fraud is teaching people how to recognize and report it. During Fraud Awareness Week, members of the Fraud Coalition address service clubs, church and community groups to provide information and raise awareness.

Dale Dixon, Better Business Bureau, provided statistics on the number of fraud complaints the BBB receives, saying the BBB tracks about $450,000 per month in scam-related calls. Mr. Dixon said the BBB relies on the Department of Finance, the Department of Insurance, local law enforcement, and the Attorney General's Office to help combat fraud. He also provided an example of how a senior citizen was lured into sending large amounts of money to someone who convinced her she had won the Jamaican lottery.

Michael Mulcanery, Special Investigator for State Farm Insurance, testified that his company investigates cases of possible insurance fraud. Although some of these claims are investigated and subsequently paid, many more are not because they are found to be fraudulent. These include cases of arson, staged accidents, false burglaries, and even false death claims. Mr. Mulcanery stated that although some people report cases of fraud when they are aware of it, this is not the norm. He said every year Idahoans pay hundreds of dollars in additional insurance premiums and medical costs because of fraud. Mr. Mulcanery stated that the Fraud Coalition helps people understand the extent of the problem and encourages them to come forward to report fraud.

Les Lake, Certified Fraud Examiner and Regional Forensic Accounting Manager for a national CPA firm, testified that over $994 billion is lost each year to fraud; the figure worldwide is $2.9 trillion. Mr. Lake noted that nine out of ten new businesses in Idaho don't survive, and a third of those that fail do so because of fraud or embezzlement. He estimated the amount of fraud losses in Idaho to equal roughly five percent of the state's budget. The most common types of fraud are billing schemes, corruption, check tampering and skimming.

Responding to a committee question, Mr. Lake said if a person suspects fraud, the person can call any member of the Idaho Fraud Awareness Coalition, who can help determine where to go with the information and can recommend an appropriate course of action.

Tricia Carney, Public Information Specialist for the Department of Insurance, informed the committee of the Coalition's website, www.fightfraudidaho.com, and encouraged them to visit the website. Ms. Carney said she will supply the committee members with informational brochures from the Coalition.

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

Representative Frank Henderson
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE
BARBIERI SUBCOMMITTEE

Rules from the Bureau of Occupational Licenses

Upon Adjournment of the Full Committee

Room EW41

Monday, January 31, 2011

DOCKET NO.	DESCRIPTION	PRESENTER
	Bureau of Occupational Licenses:	Roger Hales
24–0101–0902	Board of Architectural Examiners; Qualifications for Exam	
24–0201–1001	Board of Barber Examiners; Licensure Requirements	
24–0201–1002	Board of Barber Examiners; Student/Instructor Ratio	
24–0801–1001	State Board of Morticians; Resident Trainees	
24–2201–1001	State Liquefied Petroleum Gas Safety Board; Dealer-in-Training License	
24–2501–1001	Idaho Driving Businesses Licensure Board; New Chapter	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Vito Barbieri

Rep Jeff Thompson

Rep Elaine Smith

COMMITTEE SECRETARY

MaryLou Molitor

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MINUTES

HOUSE BUSINESS COMMITTEE
BARBIERI SUBCOMMITTEE

Administrative Rules from the Bureau of Occupational Licenses

DATE:	Monday, January 31, 2011
TIME:	Upon Adjournment of the Full Committee
PLACE:	Room EW41
MEMBERS:	Chairman Barbieri, Representatives Smith(30), Thompson
ABSENT/ EXCUSED:	Rep. Smith (30)
GUESTS:	Brad Hurt, Office of Administrative Rules; Roger Hales, Bureau of Occupational Licenses; Mike Ryals, Driver Training Board

Meeting was called to order at 2:15 p.m. by Chairman Barbieri.

Docket No. 24-0101-0902: **Roger Hales**, attorney representing the Bureau of Occupational Licenses, presented **Docket No. 24-0101-0902**, from the Board of Architectural Examiners. Mr. Hales said this rule implements language from **HB 92** last year. By way of background, Mr. Hales explained that to become licensed as an architect, a candidate must earn a degree, serve an internship, and pass the exam, typically in that order. Last year, the Board decided to allow a person to begin taking the multi-part exam as soon as he or she graduates and starts an intern development program. The rule also clarifies the required experience in lieu of a degree. Mr. Hales said Idaho is one of the few states that will grant a license to candidates without a degree who can establish that they have eight years of experience that duplicate a degree. The internship is still required.

MOTION: **Rep. Thompson** moved to recommend that **Docket No. 24-0101-0902** be approved by the full committee; **motion carried on voice vote.**

Docket No. 24-0201-1001: **Mr. Hales** presented **Docket No. 24-0201-1001**, from the Board of Barber Examiners. He noted that Kevin Moriarty, Chairman of the Board, was present to answer technical questions. This rule eliminates an exam requirement, but requires applicants to attest that they are familiar with current Idaho laws and rules. Candidates coming from out of state will not be required to take a test but will attest that they have reviewed Idaho's rules and laws. Mr. Hales said this approach is fairly standard and it entails less administration and less expense in terms of designing and administering the examinations.

Rep. Thompson moved to recommend that **Docket No. 24-0201-1001** be approved by the full committee; **motion carried on voice vote.**

Docket No. 24-0201-1002: **Mr. Hales** presented **Docket No. 24-0201-1002**, another rule from the Board of Barber Examiners. This rule increases the student/instructor ratio, incorporating changes brought about by H 459 last year. These changes were brought at the request of the schools.

MOTION: **Rep. Thompson** moved to recommend that **Docket No. 24-0201-1002** be approved by the full committee; **motion carried on voice vote.**

Docket No. 24-0801-1001: **Mr. Hales** presented **Docket No. 24-0801-1001**. He said many of the changes are language updates and not substantive. Mr. Hales explained the two types of licenses in the funeral industry. The highest level of licensing is a mortician, who can embalm dead human bodies and can also arrange and conduct funerals. Funeral directors can only arrange and conduct services but cannot embalm. Licensees must complete educational requirements, pass a national examination, and serve a supervised internship. Mr. Hales explained that in the past some candidates would begin internship programs and then the Board would lose track of them because they dropped out or changed to a different location. This rule will require that both the trainee and the supervisor file quarterly reports. The supervisor must also inform the Board if the trainee ceases to continue with training. Finally, the rule will allow discretion in extending the period of time spent in an internship, for good cause.

Responding to a committee question, Mr. Hales said these measures do, in fact, help protect the public by establishing the nature of the training required of an intern. He said the Board has been concerned about the type of training interns have received in the past, and they want to assure that supervisors are providing good training. Mr. Hales also said the Board worked closely with the state association in developing these rules. If the association had felt the requirements would be burdensome, they would have objected.

MOTION: **Rep. Thompson** moved to recommend that **Docket No. 24-1801-1001** be sent to full committee **without recommendation**; **motion carried on voice vote.**

Docket No. 24-2201-1001: **Mr. Hales** presented **Docket No. 24-2201-1001**, from the State Liquefied Petroleum Gas Safety Board. This rule establishes a dealer-in-training program with a $50 license fee. Mr. Hales said the Board has, over a period of time, lost track of individuals who were supposed to be obtaining experience while serving under a licensed dealer. There were also concerns about whether supervisors were truly providing sufficient training. Mr. Hales said previously there was a simple form used by a supervisor that attested to the fact that they supervised someone for a year, but this was found to be insufficient.

MOTION: **Rep. Thompson** moved to recommend that **Docket No. 24-2201-1001** be approved by the full committee; **motion carried on voice vote. Chairman Barbieri** asked to be recorded as having continuing reservations about this rule docket.

Docket No. 24-2501-1001: **Mr. Hales** presented **Docket No. 24-2501-1001**, which is a new set of proposed rules governing the Idaho Driving Businesses Licensure Board. Mr. Hales noted the presence of **Mike Ryals**, Chairman of the Board, who was available for technical questions. Mr. Hales testified that **S 1133**, passed in 2009, moved the governance of these businesses from the Department of Education to the Bureau of Occupational Licenses. He said the proposed rules are fairly standard for licensure boards.

Mr. Hales briefly summarized the various sections of the rule, including definitions, meetings, application process, and fees, noting that the fees have not changed. He said licenses are renewed on an individual's birthday and on a business's anniversary date. To receive a driving instructor's license, a person must be 21 years of age, have a good driving record, be medically certified, and meet educational and other criteria. The rule also spells out continuing education requirements for instructors and specifies who can offer continuing education courses. The grounds for disciplining an instructor and the allowable sanctions are delineated, including fines, revocation of license, and recovery of costs and fees.

The rule also spells out the basic qualifications of driving businesses, including background checks, occupancy and insurance requirements. The businesses must maintain a list of instructors and use vehicles that meet certain requirements, including annual inspections. The nature of the curriculum and specific curriculum requirements are also detailed. Students have to have a learner's permit, and instructors need to maintain a driving log and other proper documentation. There is a maximum number of students allowed in each car and a specified number of hours to be driven by each student.

In response to subcommittee questions, Mr. Hales said this rule is replacing a temporary rule. The original law, passed in 2009, was further refined in 2010. Mr. Hales said the Board decided it would be simpler and cleaner to bring an entirely new rule rather than trying to work with multiple strike-outs and changes. He stated that the licensing requirement for driver training instructors is not new. Rather, the Board has become an independent, self-governing agency rather than being controlled by the Department of Education.

Mike Ryals, Chairman of the Board of Idaho Driving Businesses, answered further questions from the subcommittee. He testified that after age 17, a person is not required to take a driver training course but instead can get a learner's permit and learn to drive from anyone over the age of 18. Mr. Ryals said private driving businesses have always charged more than the public school driver education courses. Those public school programs are subsidized by the state up to $125 per student, while private businesses are not.

Asked whether the regulations set up by Docket No. 24-2501-1001 would limit entry into this business, Mr. Ryals said the number of private driving instructor businesses has increased to 57, and the number of instructors has increased by 62, in just the year and a half that they have been independent. He stated he believes some minimal regulation is necessary in order to assure public safety. Mr. Ryals said each independent business sets its own fee for the course of instruction; his business charges $350, all-inclusive, except for the cost of the learner's permit from the Department of Transportation. He said some other businesses throughout the state charge less than $350.

Mr. Hales offered a further clarification, noting that the driving instructor program is not new; rather, it has simply been moved from one part of government to another, from the Department of Education to the Bureau of Occupational Licenses, a group of self-governing agencies. With this move, it is hoped that the businesses will be able to operate more efficiently. Mr. Hales said the cost to individuals taking the courses has not increased under these rules.

MOTION: **Rep. Thompson** moved to recommend that **Docket No. 24-2501-1001** be approved by the full committee.

Chairman Barbieri offered the observation that driver education seems like a good example of a field which offers start-up opportunities for small businesses. He said he thinks this legislation is moving in the wrong direction because it over-regulates small start-up companies.

VOTE ON MOTION: **Chairman Barbieri** called for a vote on the motion to recommend that **Docket No. 24-2501-1001** be approved by the full committee; **motion carried on voice vote.**

Roger Hales, Bureau of Occupational Licenses, asked the subcommittee whether they wished to receive further clarification on the mortician's rule, since the chairman of that board was present in the hearing room. **Chairman Barbieri** encouraged Mr. Hales to invite the chairman to the regular committee meeting in order to answer any questions the committee might have when they consider this rule.

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

Representative Vito Barbieri
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE

1:30 P.M.
Room EW41
Tuesday, February 01, 2011

Subject	DESCRIPTION	PRESENTER
	ADMINISTRATIVE RULES REVIEW	
	Report from DeMordaunt/Batt Subcommittee Rules from the Division of Building Safety:	Rep. Batt
Docket Nos:	07-0103-1001, 07-0104-1001, 07-0107-1001, 07-0205-1001, 07-0301-1001, 07-0311-1001, 07-0402-1001, 07-0701-1001	
	Report from Guthrie Subcommittee Rules from the Department of Insurance:	Rep. Guthrie
Docket Nos:	18-0104-1001, 18-0105-0901, 18-0147-1001, 18-0150-1001, 18-0153-1001, 18-0166-1001, 18-0177-1001, 18-0179-1001	
	Report from Barbieri Subcommittee Rules from the Bureau of Occupational Licenses:	Rep. Barbieri
Docket Nos:	24-0101-0902, 24-0201-1001, 24-0201-1002, 24-2201-1001, 24-2501-1001	
Docket Nos:	**For Full Committee Discussion**:	
07-0301-1002	Division of Building Safety; Change in Fees	
24-0801-1001	Board of Morticians; Resident Trainees	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Tuesday, February 01, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Representative(s) Patrick, Thompson

GUESTS: Mark Gehrke, Intern; Steve Keys, Division of Building Safety (DBS); Patrick Grace, Office of the Attorney General, DBS; John Buck, Board of Morticians; Dennis Stevenson, Administrative Rules Coordinator

Meeting was called to order at 1:35 p.m. by Chairman Black, who asked the subcommittee chairmen to report on their review of Administrative Rules.

Rep. Batt reported that the DeMordaunt/Batt Subcommittee recommended that all pending rules from the Division of Building Safety be approved, with the exception of **Docket No. 07-0301-1002**, Change in Fees. The subcommittee recommended that this rule be referred to the Business Committee without recommendation.

MOTION: **Rep. DeMordaunt** moved to approve all pending rules from the Division of Building Safety, with the exception of **Docket No. 07-0301-1002**, as recommended by the subcommittee. **Motion carried on voice vote.**

Rep. Guthrie reported that the Guthrie Subcommittee recommended that all pending rules from the Department of Insurance be approved by the full committee. Rep. Guthrie explained that there had been a concern about one of the rules dealing with the International Fire Code, but the concern had been worked out with the State Fire Marshal.

MOTION: **Rep. Collins** moved to approve all pending rules from the Department of Insurance; **motion carried on voice vote**.

Rep. Barbieri reported that his subcommittee had recommended approval of all pending and fee rules from the Bureau of Occupational Licenses, with the exception of **Docket No. 24-0801-1001**, Rules of the State Board of Morticians. With regard to this rule, the subcommittee referred it to the Business Committee without recommendation.

MOTION: **Rep. Smith** moved to approve all pending and fee rules from the Bureau of Occupational Licenses, with the exception of **Docket No. 24-0801-1001**, dealing with morticians. **Rep. Barbier**i noted he had some concerns with the rules concerning Idaho Driving Businesses, **Docket No. 24-2501-1001**, saying he thought the rule could eliminate the potential for competition in that arena. He also thinks the Board is going in the wrong direction by adding new rules and regulations.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to approve all pending and fee rules from the Bureau of Occupational Licenses, with the exception of the Rules from State Board of Morticians; **motion carried on voice vote**.

Docket No. 07-0301-1002: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **Docket No. 07-0301-1002**. This rule changes the fee basis for building permits and plan reviews as well as the hourly fee for technical services. Mr. Keys gave examples of how the new fee structure for technical services would affect charges on various levels of building projects. On a $10 million job, the fee would be reduced to $32,000 from about $36,500; on a $20 million job, the fee decreases from $73,000 to $52,000.

Mr. Keys explained the Division had implemented new software that will ease the plan review process by facilitating the electronic submission and exchange of plans and project documentation. As a result of the new efficiencies, the basis for plan review fees ha been changed, from a flat 65% of the calculated building permit fee to an hourly fee of $10 with a minimum fee of 40% of the calculated building permit fee. Mr. Keys said in most cases the minimum fee will cover the cost of providing the plan review; the exception may be in those rare cases involving multiple changes after the initial submission of plans.

Responding to committee questions, Mr. Keys said the minimum amount charged would be 40% of the calculated building permit fee, and the $100-per-hour charge comes into play only if the cost, predicated on a rate of $100 per hour of actual time spent, exceeds the base fee. Asked how the new fee structure will affect revenues, Mr. Keys said the Division had done an analysis and determined that they could operate within the reduced revenue stream and still provide services.

In response to further questions, Mr. Keys said the Division is required to do a plan review on any construction project undertaken by the state of Idaho in excess of $100,000. Schools can choose to use their local building department or the Division of Building Safety for the required review. Revenues from fees accrue to the Building Code Board fund within the Division, and are accounted for like any other dedicated fund within the state.

Further explaining the $100-per-hour charge, Mr. Keys said about $55 to $60 of that charge is due to labor costs for plan review experts, and the balance pays for the necessary technology and overhead. Mr. Keys stated there is not a "refund" of any balance left at the end of the review process if the review takes less time than the 40% charge would have covered, figured at $100 per hour. Any balance accrues to the Division's funds. He also noted that if a plan review is done by a local building department, the charge cannot be in excess of what the state Division of Building Safety would charge.

MOTION: **Rep. DeMordaunt** moved to approve **Docket No. 07-0301-1002**.

A further question was asked about whether the Division's new fee structure might negatively impact local jurisdictions and limit their ability to perform plan reviews, since they do not have access to the same software and resulting efficiencies as the Division. Mr. Keys said no negative feedback had been received from local jurisdictions regarding this proposed rule.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to approve **Docket No. 07-0301-1002; motion carried on voice vote**.

Docket No. 24-0801-1001: **Roger Hales**, an attorney representing the Bureau of Occupational Licenses, presented **Docket No. 24-0801-1001**. Mr. Hales noted the presence of John Buck, Chairman of the Board of Morticians, who was available for technical questions. Mr. Hales explained that morticians and funeral directors are required to meet educational requirements, serve an internship, and pass a national exam. This rule concerns the internship, called a resident trainee program.

Mr. Hales explained the four basic changes brought about by the rule. First, it allows a mortician to have more than one intern, setting the maximum number at two. Second it requires that a supervising mortician or funeral director file quarterly reports with the Board. This was a previous requirement that was eliminated; the Board wants to reinstitute it. Third, the rule allows an extension of time, beyond the current two-year limit, for completion of the internship. Extensions can be granted for reasons such as military service or medical necessity. Finally, the rule requires that trainees inform the Board if their status changes; in other words, if they stop their training or go to work for a different mortician.

Responding to committee questions, Mr. Hales explained that a mortician is one who can arrange and conduct funeral services but also embalm dead human bodies. Funeral directors can plan and conduct funerals but cannot embalm. The new rule applies to both morticians and funeral directors. Asked what brought about the change in rules, Mr. Hales said the underlying requirements have not changed, but the new provisions allow better supervision and tracking of resident trainees. He said the rule does not define what constitutes "good cause" for extending a training period, leaving that to the discretion of the Board. Mr. Hales also noted that no fee changes are included in this proposed rule.

MOTION: **Rep. Crane** moved to approve **Docket No. 24-0801-1001**; **motion carried on voice vote**. **Rep. Barbieri** requested that he be recorded as voting no.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Thursday, February 03, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS20018C1	Idaho Small Business Federal Funding Assistance Act	Brian Dickens, Department of Commerce
H 70	Electrical Apprentices; Registration Renewals	Steve Keys, Division of Building Safety
H 71	Idaho Elevator Safety Act; Temporary Certificate to Operate	Steve Keys
H 72	HVAC Board; Compensation and Other Amendments	Steve Keys
H 74	Electrical Board; Compensation	Steve Keys

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Thursday, February 03, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Reps. Crane, Smith (30)

GUESTS: Steve Keys, Division of Building Safety; Patrick Grace, Office of the Attorney General; Dave Whaley, Idaho AFL-CIO; Mark Gehrke, Intern; Brian Dickens, Department of Commerce; Benjamin Davenport, Risch Pisca

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

MOTION: **Rep. Bilbao** moved to approve the minutes of January 31; **motion carried on voice vote**.

MOTION: **Rep. Bilbao** moved to approve the minute of February 1; **motion carried on voice vote**.

MOTION: **Rep. Thompson** moved to approve the Barbieri Subcommittee minutes of January 31; **motion carried on voice vote**.

RS 20018C1: **Brian Dickens**, Administrator of the Commercial Innovation Division of the Department of Commerce, presented **RS 20018C1**. Mr. Dickens said this proposed legislation is intended to provide funding to small businesses to assist in the application process for federal grant funding. He said the Department of Commerce has previously managed two similar programs and is currently administering another such program. The Department would like to make this a permanent program and make the $150,000 a permanent line item of their budget. Mr. Dickens reported on the success of this program, noting that the Department had made $4,000 grants to 27 awardees in 2008, and 12% of those were successful in securing federal funding. In 2009, 53 companies were awarded $3,000 grants, and 20% of them won phase one awards. Mr. Dickens said this year, under the Small Business Administration's FAST Grant Program, the Department of Commerce received $100,000 and added $25,000 of matching funds. Since this funding sunsets in September, they hope to have the state program in place at that time.

Responding to committee questions, Mr. Dickens said the $150,000 figure is already a part of the Department's budget that is before JFAC. He said the Department is currently working with the Division of Financial Management (DFM) to reallocate funds that are currently in the Economic Development Fund, in order to fund the grant program. Asked whether the program could be run as a sort of "revolving loan fund" with repayment required of successful grant award winners, Mr. Dickens said he knows that at least some companies are willing to repay their grants if they secure funding. He said the Department is open to managing the program in that way and could incorporate such a requirement into the rules. Or, if more appropriate, the requirement could be included in legislation. However, the program needs to remain fundamentally a grant program rather than a loan program, since some applicants are not successful and therefore would not be able to repay.

In response to further questions, Mr. Dickens said there is no favoritism shown with regard to different regions of the state, since there are technology companies in every region of Idaho. He said they hope to get $150,000 in new money, but in order to keep the program going forward, they are working with DFM to rearrange funding within the Department. Asked whether the Department maintains a list of grant writers, Mr. Dickens said there are individuals or companies who register with the Department; in order to do so, they first undergo a review process.

Asked about the fiscal note on the Statement of Purpose, Mr. Dickens said the intent of the legislation is to renew a program that was originally funded in 2007 with a $100,000 allocation from the Legislature. This program has so far experienced a 90-to-1 return on investment, and Mr. Dickens said it aims to encourage small businesses who do not have the expertise or the personnel to pursue federal grants. He said he believes the Department has proven the success of this program and they would like to make it a formal part of the Department's mission. He said the Department is sensitive to the scarcity of funds, and that is why they are working with DFM to find sources of funding to continue it. Mr. Dickens said the $150,000 is a line item in the Governor's budget proposal.

Chairman Black commented that he has been aware of the success of this program. He said this legislation would establish the program so that, even if it may not be funded this year, it could be funded when money becomes available. He encouraged the committee to vote in favor of introducing **RS 20018C1**, understanding that the bill may eventually be referred to a different committee.

MOTION: **Rep. Black** moved to introduce **RS 20018C1.**

In further committee discussion, committee members expressed concern about the tight budget situation in the state, and noted that the RS makes it appear as though the Department is asking for new funding. Mr. Dickens testified that the program does use *pro bono* or contingency services when possible, and they do all they can to minimize costs. He said the program was responsible for creating 38 jobs last year, with an average salary of $64,000. This represents taxable payroll, which returns money to the general fund. Mr. Dickens said many of these small companies lack the capacity to pursue available grants. However, once they are successful in winning a grant, with the help of the Department of Commerce's program, they parlay the grant money into further successes.

VOTE ON MOTION: A **roll call vote** was requested on the motion to introduce **RS 20018C1**. By a vote of **4 aye and 10 nay**, the motion **failed**. Voting in the affirmative: **Reps. Black, Collins, Thompson and Cronin**. Voting in the negative: **Reps. Henderson, Bilbao, Chadderdon, Patrick, Bayer, Palmer, Barbieri, DeMordaunt, Guthrie and Batt**.

Chairman Black assumed the Chair.

H 70: **Steve Keys** Deputy Administrator of the Division of Building Safety, presented **H 70**, which deals with renewal of electrical licenses and registrations. The bill specifically mentions registrations separately from licenses, and then specifies that the electrical board is empowered to establish education and work requirements that must be satisfied to renew a registration. The board has specific statutory authority to adopt rules establishing apprentice and specialty trainee registration requirements; this bill clarifies that the board's authority extends to establishing requirements for renewing those registrations.

MOTION: **Rep. Bilbao** moved to send **H 70** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Bilbao** will sponsor the bill on the floor.

H 71: **Mr. Keys** presented **H 71** , which clarifies language in Idaho Code that allows the elevator owner and the Division of Building Safety (DBS) to enter into a compliance agreement where practicalities limit the ability of the owner to correct discrepancies, but then limits the issuance of a temporary certificate to operate to one non-renewable 60-day period. Many times, due to parts availability or other circumstances, repairs or modifications cannot be accomplished within the 60-day limit. This change allows the agency to determine the expiration date of the temporary certificate depending on the circumstances. It also changes the existing language relating to a "permanent" certificate to operate to accurately reflect the five-year term of the certificate to operate.

Responding to committee questions, Mr. Keys said the current limit is 60 days, and the intent of the legislation is to move away from that time limit. This legislation allows the Division to extend the time period at their discretion. Mr. Keys also explained that when the statute was written, there was reference to a "permanent" certificate to operate; this legislation specifies a five-year period. The current practice is to reinspect every five years, at the time of renewal of the certificate to operate.

MOTION: **Rep. Patrick** moved to send **H 71** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Patrick** will sponsor the bill on the floor.

H 72: **Mr. Keys** presented **H 72**. This legislation enacts one-time adjustments to the terms of board members to address the fact that currently five of the seven board members are appointed in the same year. This proposal also changes the basis of compensation for board members from a salary to an honorarium. There is no change in the amount of the compensation, but the honorarium status allows board members to continue contributing to their own retirement accounts. The bill also establishes a requirement for the HVAC Board to elect a chairman and a vice-chairman every two years.

MOTION: **Rep. Thompson** moved to send **H 72** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Thompson** will sponsor the bill on the floor.

Mr. Keys was asked whether the situation of a salary versus an honorarium is being addressed systematically with all boards. He responded that all boards were in favor of changing from salary to honorarium, with the exception of the plumbing board, who declined to make the change to an honorarium.

H 74: **Mr. Keys** presented **H 74**. He said this bill addresses the same problem as discussed earlier with regard to the compensation of HVAC board members, except that it deals with the electrical board. The legislation will change the basis of the compensation from a salary to an honorarium in order to allow members to contribute to their individual retirement accounts.

MOTION: **Rep. Batt** moved to send **H 74** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Batt** will sponsor the bill on the floor.

Rep. DeMordaunt asked whether it would be appropriate to encourage the Department of Commerce to consider incorporating some changes to their proposed legislation, based on suggestions made during the committee discussion. He suggested that the Department might want to determine what kind of fiscal impact would occur if their grant program included a repayment or reinvestment provision. Rep. DeMordaunt said small businesses need to be encouraged, and such a measure would help the grant program support itself. He stated it is his opinion that the Department of Commerce should study the options in that regard and return with some possible solutions.

Chairman Black asked **Rep. DeMordaunt** and **Rep. Cronin** to contact the Director of the Department of Commerce and set up a meeting to further discuss these ideas, and then report back to the Business Committee.

Rep. Rusche moved to approve the Guthrie Subcommittee minutes of January 31; **motion carried on voice vote**.

Chairman Black announced that the committee will not meet on **Monday, February 7**. The next meeting will be on **Wednesday, February 9**.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AMENDED #1 AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Wednesday, February 09, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS20304	Engineers & Land Surveyors; Amendments	Rep. Patrick
RS20331	Farm Equipment; Purchase	Rep. Patrick
RS20338	Social Security Numbers; Recreational Licenses	Rep. Thompson
RS19988C1	Idaho Immunization Assessment Board; Amendments	Bill Deal, Director Department of Insurance
RS20259C1	Health Carrier External Review Act	Bill Deal
RS20310	Manufactured Home Residency Act	Jack Lyman, Idaho Housing Alliance
H 75	Plumbing Board; Idaho State Plumbing Code	Steve Keys, Division of Building Safety

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Wednesday, February 09, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Chairman Black

GUESTS: Russell Goyen, Plumber; Cache W. Olson, City of Nampa; Jimmie Brown, City of Nampa; Ed Howland, plumbing instructor; Dennis Butterfield, Meridian Plumbing; Jim Genetti, Idaho Association of Health Underwriters; Kenny Calkins, Cloverdale Plumbing; Steve Keys, Division of Building Safety (DBS); Reed Clay, Plumbers & PipeFitters 296; Rod Bacus, UA Plumbers 296; Adele Adams, City of Caldwell; Jerry Peterson, DBS; Pete Crow, International Association of Plumbing and Mechanical Officials (IAPMO); Dennis Davis, Idaho Association of Building Officials (IDABO); Bill Calkins and Frank Young, Young Plumbing; John Nielsen, DBS; Peter Anfinson, Anfinson Plumbing & Mechanical; Lane Triplett, Plumbing Committee; Lynne Simnick, IAPMO; Cindy Hedje, AFL-CIO; Milford Terrell, State Plumbing Board; Kirk Wiskirch, DBS; Jack Lyman, Idaho Housing Alliance; Larry Yardlay and Steve Wortman, Local 296; David Ascuent; Julie Taylor, Blue Cross of Idaho; Bill Deal and Shad Priest, Department of Insurance; Ray Cook, San-Ray Plumbing; Woody Richards, Blue Cross; Benjamin Davenport, Risch Pisca; Ed Kershner, Local 296; Suzanne Budge, SBS Associates; Gilbert Pond, Pond's Plumbing & Heating

Meeting was called to order at 1:30 p.m. by **Vice Chairman Henderson**, in the absence of Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of February 3, 2011; **motion carried on voice vote**.

RS 20304 **Rep. Patrick** presented **RS 20304.** He explained that this RS is identical to the previous RS presented by the Board of Engineers and Land Surveyors, with one minor addition. On page 10, lines 38-39, the words "that is not preliminary in nature" are added.

MOTION: **Rep. Rusche** moved to introduce **RS 20304; motion carried on voice vote.**

RS 20331 **Rep. Patrick** presented **RS 20331.** He explained that this proposed legislation will update the language used in contracts for equipment dealers in Idaho. Rep. Patrick said during the late 1980s and early 1990s the equipment industry suffered from a high level of bankruptcies. This resulted in threatened and actual dealer cancellations or terminations without any provisions by the manufacturer for compensation to the dealers. Rep. Patrick said this is still an ongoing problem in the auto industry.

Rep. Patrick explained provisions of the legislation, saying it updates the definition of "used equipment" and updates warranty reimbursement language. It also sets parameters to protect dealers, including adding to the remedies and enforcement section of the statutes to provide for recovery of monetary damages. It states that Idaho courts will have jurisdiction over legal disputes. Rep. Patrick explained

equipment manufacturers are not located in Idaho and their contracts are often one-sided in their favor.

Rep. Patrick testified that the legislation also updates the buy-back provisions by expanding the protection of equipment to include utility and construction equipment. It also a provision for repurchase of repair parts listed in the supplier's manual, and amends the payments upon termination or allowances of credit due the dealer, and makes other changes to the buy-back statutes.

Responding to a question from the committee, Rep. Patrick said these contract revisions are not being pursued because the dealerships are struggling, but rather because the contracts themselves are often unfair. He stated the equipment dealers can sell directly to farmers, thus bypassing dealerships, which amounts to a form of unfair competition. Rep. Patrick said these multinational companies write contracts to favor themselves.

MOTION: **Rep. Smith** moved to introduce **RS 20331; motion carried on voice vote.**

Vice Chairman Henderson announced that the next item on the agenda, **RS 20338**, would be heard at a later meeting, since **Rep. Thompson**, the RS sponsor, is absent.

RS 19988C1 **Bill Deal**, Director of the Department of Insurance, presented **RS 19988C1.** Mr. Deal testified that last year an immunization assessment bill was passed and the Department of Insurance was assigned the responsibility of administering the assessment. He introduced **Sandy Metro**, the staff person at the Department who has been administering the program. The board created by the immunization assessment legislation includes representatives from insurance companies and Health & Welfare, as well as legislators and administrators. Mr. Deal said Health & Welfare had set a goal of about $8 million they hoped would be raised, but in fact the Board has received $10,101,099 to date. He also stated child immunization rates have increased by 10% in the past year, thanks in part to this program.

Director Deal said this bill does six things. 1) It gives the board the authority to consult with experts such as medical doctors or health care professionals and seek their assistance in order to carry out its function. 2) It allows them to receive input from the Department of Health & Welfare. 3) It provides for an annual assessment. 4) It clarifies the amount of the annual assessment and how it is to be calculated. 5) It defines which vaccines will be funded. 6) It allows some of the funds to be used for administrative functions of the assessment program.

Responding to a question about assessments from ERISA plans and TPAs, Mr. Deal said an agreement has been reached with third party administrators but discussions are still taking place with the ERISA plans. Asked about the sunset date mentioned on page 3, lines 11-12, Mr. Deal said that date is January 1, 2013.

MOTION: **Rep. Collins** moved to introduce **RS 19988C1; motion carried on voice vote.**

RS 20259C1 **Mr. Deal** presented **RS 20259C1.** This legislation deals with an external review process that is available to an insured if a claim for experimental or non-necessary treatment is denied. In the case of a denial, the insured can ask the Department of Insurance for an independent review. Mr. Deal said there were 13 independent reviews in 2010, four for non-necessary treatments and the rest for investigational treatments. Of those 13, two denials were reversed, three were determined to be not eligible, and eight denials were upheld.

Director Deal explained that this legislation expands the types of claims eligible for external review, to include denials based on appropriateness, health care setting, level of care, and effectiveness. The legislation also clarifies the definition of an urgent care request, deletes wording that would have permitted a fee for external

reviews, and spells out other provisions related to requests for external review. Mr. Deal said the proposed changes are necessary to assure that appeals from health carrier claims in Idaho will be governed by state law, not federal law.

Answering questions from the committee, Mr. Deal said this will bring Idaho into compliance with the Health Care Reform Act. He said the external review process does not go with the catastrophic health fund.

MOTION: **Rep. Rusche** moved to introduce **RS 20259C1; motion carried on voice vote.**

RS 20310 **Jack Lyman**, representing the Idaho Housing Alliance, presented **RS 20310**. The Idaho Housing Alliance represents the people who build, service, install and sell manufactured homes, as well as the owners and operators of manufactured home communities. Mr. Lyman said the current Mobile Home Landlord/Tenant Act was passed in 1981 and has been amended seven times since then. As currently written, the act applies only to mobile homes (manufactured before June 1, 1976) but not to manufactured homes (factory-built structures built after June 1, 1976). This legislation will make sure the act applies to both.

In addition to that change, the legislation changes "tenant" to "resident" and "mobile home park" to "community," and other definitions are added to clarify current provisions. There is also a significant change that will provide a process to conduct a lien sale for abandoned homes. Mr. Lyman said this language is patterned after provisions used for abandoned automobiles, since mobile and manufactured homes are titled the same way as automobiles and have vehicle identification numbers.

Mr. Lyman testified that a number of meetings had been held with representatives of residents, including Catholic Charities and Legal Aid, to review the language in this RS. He said most of their suggested changes have been included in the proposed legislation. One of their suggestions, however, was not included; it would have provided increased notice requirements given to a resident who violates community rules or does not pay rent. Mr. Lyman said current law requires an initial three-day notice followed by a 20-day notice to vacate. The resident groups requested that this be increased to 15 days and 90 days.

In response to questions from the committee, Mr. Lyman said the resident groups may have other objections to the proposed legislation, which they may present when the bill is scheduled for a full hearing. He said their primary concern was the proposed definition of "rent," and the Idaho Housing Alliance agreed to use their suggested definition in the legislation. Asked how the current notification requirements compare to those for a typical rental property, Mr. Lyman said he would research that question and provide it to the committee.

MOTION: **Rep. Bilbao** moved to introduce **RS 20310; motion carried on voice vote**.

H 75 **Steve Keys**, Deputy Director of the Division of Building Safety, presented **H 75**. Mr. Keys first introduced **Ron Loveland**, past chairman of the Idaho State Plumbing Board, **John Nielsen**, Plumbing Program Manager at DBS, and **Lynne Simnick**, Director of Code Development from the International Association of Plumbing and Mechanical Officials (IAPMO), all of whom are available to answer technical questions. In addition, Mr. Keys introduced **Milford Terrell**, current chairman of the Plumbing Board, who will make closing arguments.

Mr. Keys said he and the Division understand and appreciate what is expected of them in terms of developing and presenting legislation. He said part of the existing regulatory framework for Idaho's plumbing industry includes empowering the board to adopt new editions of the Uniform Plumbing Code (UPC) and amendments thereto through administrative rule. He stated that, while this has worked well over the years, the board and the plumbing industry think it is time to improve the system. Instead of considering adoption of a new edition of the UPC every three

years, the board had previously decided to look at a new edition every six years, since changes were generally not extensive. This would also mitigate the fiscal impact on the industry and on jurisdictions that enforce the code.

When the board began considering adoption of a new version of the code in 2008, they established a subcommittee to study and define differences between the UPC and the International Plumbing Code (IPC). Mr.Keys said half of that subcommittee was made up of representatives from local jurisdictions. After the subcommittee's report was received, a decision was made to develop an Idaho code based on the UPC.

At that point, two subcommittees were formed to go through the UPC line-by-line and to make recommendations for modifications to be included in the Idaho code. Mr. Keys said one subcommittee was chaired by a local plumbing inspector and the other by an educational provider. He stated these subcommittees each held multiple open, publicly-noticed meetings, and their reports were presented to the plumbing board in open, publicly-noticed meetings, where comments from the public were considered.

Mr. Keys said that entire process resulted in the Idaho State Plumbing Code (ISPC). He testified this new proposed ISPC includes some provisions from the IPC which were thought to be advantageous. The ISPC provisions were developed and brought forward with the assistance of the International Association of Plumbing and Mechanical Officials (IAPMO). Mr. Keys said the ISPC will be able to be amended by rule, as the need for changes is recognized. The code will be published by IAPMO and will be available online for review by the public at no charge. Code books will be available in either printed or digital format for purchase by industry members and local jurisdictions.

Mr. Keys also explained the process used by the Division in developing the ISPC, noting that DBS publishes a newsletter distributed to all licensees, stakeholders, legislators and interested parties. The development of the ISPC has been documented in that newsletter. He said all plumbing board meetings and subcommittee meetings were open and the dates were publicized. Mr. Keys said the expense of adopting the ISPC is equivalent to that of adopting the 2009 edition of the UPC and is less costly than adopting the IPC and the multiple code books required to cover all installation requirements. He said the ISPC is the result of starting with an American consensus code and incorporating changes deemed necessary by the industry to make it an Idaho Code.

In closing, Mr. Keys said the Division will not realize any revenue from adoption of this code. He said the Division and the Board have collaborated to develop a new code that best serves the people of Idaho. Addressing a question from the committee, Mr. Keys said the water softener loop has been a long-standing requirement, and said Mr. Terrell will address that during his remarks.

Vice Chairman Henderson indicated there are 12 persons who have signed up to testify on **H 75**, and he stated his intention to limit testimony to three minutes per person, with allowance for questions.

Russell Goyen, a licensed Idaho plumber, testified **in opposition to H 75**. Mr. Goyen stated he has worked as a journeyman plumber for 27 years and as chief plumbing inspector for the city of Idaho Falls for 18 years. He said state plumbing codes were once common but they were abandoned in favor of the Uniform Plumbing Code; the intent at that time was to streamline the design process and align Idaho with neighboring states, all of whom use the UPC. Mr. Goyen said adoption of an Idaho plumbing code could jeopardize reciprocity with these states.

He also has questions about who will amend or revise the IPC and what the process will be. Mr. Goyen said cities have been allowed to adopt codes that provide equal minimum standards, but this would be negated by H 75.

Ed Howland, a plumbing instructor for the last 15 years, testified **in favor of H 75**. He said from an instructional point of view, a new ISPC would be invaluable because it would tell students what is expected. Mr. Howland said an effort has been made to make the current plumbing code available online; at present, three of the four sections have been put online and are being used successfully. He said if the change to a different code is made, it will require an expenditure of time and money to change the online course, and no funding is available for that in the foreseeable future.

Responding to committee questions, Mr. Howland said they do have permission to put the code online from IAPMO and therefore they are not violating copyright laws. He said as an instructor he needs to remain neutral on this legislation, but as a plumbing contractor and a journeyman plumber, he favors the new ISPC. Asked whether the adoption of a new code would impose a significant training burden, Mr. Howland said if the new code contains significant differences, the course work would have to be changed accordingly.

Cache Olson, City of Nampa, a plumber with 35 years' experience, testified **in opposition to H 75**. Mr. Olson is the current City of Nampa senior plumbing and mechanical inspector, and he opposes this legislation because it would remove local control. He said the City of Nampa appreciates being allowed to have its own standards as long as they are equal to or greater than the IDAPA standards.

In response to questions, Mr.Olson said the municipalities were not fully represented during the formulation of the new ISPC, but he said some differences could possibly be worked out, given some time. He testified that some provisions of the IPC work better for certain situations, and Nampa likes to have the choice between the IPC and the UPC. He agreed that if H 75 passes, authority would be taken away from local jurisdictions and given to the state.

Kenny Calkins, Cloverdale Plumbing, testified **in favor of H 75**. Mr. Calkins is president of the Treasure Valley Master Plumbers Association and also chairs the City of Boise Plumbing and Mechanical Board. Mr. Calkins said he prefers an updated code with IDAPA rules. He is concerned about people who have not worked in the trade performing inspections.

In response to committee questions, Mr. Calkins said there has been an effort to find common ground, but there are two different bodies of code developers who are fighting over the country. He said some cities use the International Code, others use the Uniform Code. Asked why so many building inspectors are opposed to the legislation, Mr. Calkins said if this bill passes the new ISPC will be in effect for six years, and they would not be able to implement the IPC. Mr. Calkins said the City of Nampa was included in the development of the new code, but they are standing firm with the IPC.

Jimmie Brown, a building official for the City of Nampa, testified **in opposition to H 75**. He stated the vast majority of plumbing permits in Idaho are issued by local jurisdictions, not by the state. He said the development of this legislation was not a consensus in any way, and the only building official he knew who was involved quit out of frustration. Mr. Brown said in terms of IDAPA rules, the local jurisdictions have never been required to follow IDAPA rules, unless the permit is issued and the inspection done by the state. He also stated the water softener loop requirement has nothing to do with public safety and represents an unneeded cost in construction.

Mr. Brown said they had asked three times to be included in the formulation of this code, but they were rebuffed. He said there was no representation from the Association of Idaho Cities or the Idaho Association of Building Officials. Because local jurisdictions issue permits and perform inspections, they would like to have input.

Responding to questions, Mr. Brown said it appears as though cities will no longer have the ability to adopt both the IPC and the UPC. In terms of their involvement in the process, Mr. Brown said there is a difference between receiving a newsletter and being able to give input.

Lane Triplett, a licensed plumber and an instructor for the last 15 years, testified **in favor of H 75**. Mr. Triplett was a member of the committee that developed the last half of the new code; besides Mr. Triplett, the committee included an inspector from Idaho Falls, a contractor from Nampa, and a contractor from Twin Falls. There were differences of opinion among the members about which portions of the UPC should be included. Mr. Triplett said the plumbing board received their recommendations, some of which did not have consensus agreement, and they were free to express their positions to the board. Mr. Triplett said Oregon has a code similar to the proposed ISPC, and he does not think this will present a problem with reciprocity.

Lynne Simnick, representing the International Association of Plumbing and Mechanical Officials, testified **in favor of H 75**. She said there are many advantages to having a state code versus using a model code. She testified that California and New York have their own state codes, both of which are based on model codes but contain provisions from other codes as well. Ms. Simnick said IAPMO will provide long-term support for the ISPC, which will be published in a three-ring binder to be more easily amended. She said the organization will provide an online version, with free access to the Idaho State Plumbing Code.

Answering questions from the committee, Ms. Simnick said her organization includes 29 technical committee members with expertise in areas such as engineering, standards writing, enforcement, and labor. They also have their own testing lab. Ms. Simnick said IAPMO writes model codes. Asked whether Idaho's DBS had contracted with IAPMO or expended funding to them, Ms. Simnick said no. She said a state-specific code is advantageous because it can address climatic differences and local conditions.

Dennis Davis, representing the Idaho Association of Building Officials, testified **in opposition to H 75**. Mr. Davis said he has been in the building safety profession for 33 years and has been involved in the process of developing and moving legislation, including the adoption of the International Building Code in 2000. He restated the statutory requirements of notifying all interested parties and holding two public hearings as well as further hearings if changes are made at the local level. Mr. Davis said there is not consensus on this legislation, and stated Nampa, Coeur d'Alene, and Idaho Falls were not consulted. He also is concerned with the costs associated with additional training.Mr. Davis does not agree that there is no fiscal impact, as the Statement of Purpose claims. He also believes that offering both the IPC and the UPC is one way to help attract development into the community.

Responding to a question about whether consensus is possible, Mr. Davis said the current board is industry-based and there is no representation for the public interest. Asked who will pay the additional costs if the new code is adopted, Mr. Davis said the City of Nampa will have some expense, and those who wish to build in Nampa will need to pay to look up the requirements. He said there are two model code groups developing codes and competing to sell code books.

Milford Terrell, Chairman of the State Plumbing Board, was recognized to conclude presentation of **H 75**. Mr. Terrell disputed some of the claims of opponents, saying the plumbing board is required to include two members from the public at large, plus a gas fitter as well as plumbing contractors. He said one of the reasons they are trying to adopt an Idaho plumbing code is to save expenses for young plumbers trying to get started in the trade. Mr. Terrell said about 10% of the ISPC is taken from the IPC, with the remaining 90% taken from the UPC, along with IDAPA rules being inserted. Mr. Terrell read from board minutes that discussed the development of the proposed Idaho State Plumbing Code, saying this has been a three-year project.

Asked whether this represents a local control issue, Mr. Terrell said present law holds that the state has the ability to make law and the cities have the right to amend the rules as they decide.

MOTION: **Rep. Crane** moved to **HOLD H 75** in committee. Noting that he still does not have a clear understanding of this issue, Rep. Crane said the two opposing sides need to work out their differences. He said they have been working on this for 36 months and apparently still haven't reached agreement. He stated that local control is extremely important because citizens need to be able to go to those closest to them for resolution of any problems.

Vice Chairman Henderson asked **Rep. Crane** to clarify whether his motion was to hold the bill in committee, or to hold to a time certain. Rep. Crane state the motion would be to **HOLD H 75 subject to call of the chair**, saying if a solution is reached, the committee can move forward on the bill; if not, the bill can be held in committee.

Rep. Palmer expressed support for the motion, but said the issue needs to be settled during this legislative session. **Rep. Barbieri** expressed hope that the parties can make it clear where the control will rest, if this legislation moves forward. **Rep. Batt** noted her concern that young tradespeople should not have to pay to have access to the regulations they have to comply with.

VOTE ON MOTION: **Vice Chairman Henderson** called for a vote on the motion to **HOLD H 75 subject to the call of the chair; motion carried on voice vote.**

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

Representative Frank Henderson	MaryLou Molitor
Vice Chairman	Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Tuesday, February 15, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS20223	Nonprofit Organizations for Persons with Disabilities; Bidding on Public Contracts	Rep. Smith (30)
RS20338	Social Security Numbers on Recreational Licenses	Rep. Thompson
RS20411	Insurance and Trade Practices and Fraud; Amendments	Jim Genetti, Idaho Association of Health Underwriters
H 55	Revised Uniform Unincorporated Nonprofit Association Act	Dale Higer, Commission on Uniform State Laws

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
Phone: (208) 332-1139
email: mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Tuesday, February 15, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Rep. Chadderdon

GUESTS: Jim Genetti, Idaho Association of Health Underwriters; Dale Higer, Uniform Law Commission; Mark Gehrke, Intern; Dana Gover and Roger Howard, Living Independence Network Corporation (LINC); Corinna Stiles, Disability Rights Idaho

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

MOTION: **Rep. Bilbao** moved to approve the minutes of February 9, 2011; **motion carried on voice vote**.

RS 20223 **Rep. Elaine Smith** presented **RS 20223**, saying this legislation will give nonprofit organizations who represent or employ persons with disabilities the opportunity to bid for public contracts for services or to provide goods which have been produced by these entities. One example of such an organization is New Day Products in Pocatello. Rep. Smith said the legislation's provision is similar to the current opportunity for Idaho-based bidders, and she testified it will encourage public contracting to partner with these organizations, which will enhance the economy in Idaho.

Rep. Smith reviewed key provisions of the RS, pointing out that it provides a definition of nonprofit organizations representing people with disabilities. She said the legislation could provide jobs for disabled individuals, integrate the disabled into the community, and lessen the burden on Medicaid. In addition, she noted the nonprofit organizations will always provide job coaching for the disabled individuals, which may mean less employee turnover.

Responding to committee questions, Rep. Smith said the bill will provide an opportunity for these nonprofit organizations to bid on state services or products, an opportunity they currently do not have. She said the legislation would not provide an advantage to individuals but rather to the organizations. Asked whether working with recyclable items that have "chemical and biological properties," as delineated in the bill, would result in liability for the state, Rep. Smith said the liability would rest with the nonprofit organization, not the state.

Referring to the use of the term "shall" in various sections of the RS, Rep. Smith was asked whether the state would be required to seek at least one bid from a nonprofit organization, and whether this is an attempt to give a preference to such organizations. She replied that she believes this legislation will simply allow them the opportunity to bid. Although the term "shall" seems to indicate a requirement, Rep. Smith said it is only hoped, but not required, that such bids would be sought. Rep. Smith stated there could be a more complete explanation of the use of "shall" at the bill's hearing before the committee.

MOTION: **Rep. Crane** moved to **return RS 20223 to its sponsor**. In support of his motion, he stated the legislation allows nonprofits to compete directly with for-profit businesses and gives them a distinct advantage, thus creating an unlevel playing field.

SUBSTITUTE MOTION: **Rep. Rusche** offered a **substitute motion**, to **introduce RS 20223**. He noted it is customary and reasonable to introduce bills brought by committee members. He also said the Governor and others has called for greater involvement of nonprofit organizations in caring for the disabled, and this bill may help in those efforts. **Rep. Patrick** expressed support for introduction of **RS 20223**, although he stated he may not be able to support the legislation.

ROLL CALL VOTE ON SUBSTITUTE MOTION: A **roll call vote** was requested on the **substitute motion to introduce RS 20223**. On a vote of **12 aye and 4 nay**, with one member absent, the substitute motion **passed**. Voting in the affirmative: **Reps. Henderson, Collins, Bilbao, Patrick, Thompson, DeMordaunt, Guthrie, Batt, Smith (30), Rusche, Cronin, and Chairman Black.** Voting in the negative: **Reps. Crane, Bayer, Palmer, and Barbieri. Rep. Chadderdon** was absent.

RS 20338: **Rep. Jeff Thompson** presented **RS 20338**. He explained that the current application form for a recreational license includes arequirement to provide one's social security number. Because a social security number is a private identification number, this legislation seeks to remove that requirement.

Asked whether this would cause significant expense because of the necessary programming changes at various licensing entities, Rep. Thompson said it is his understanding that the cost will be negligible.

MOTION: **Rep. Palmer** moved to introduce **RS 20338**; **motion carried on voice vote**.

RS 20411: **Jim Genetti**, representing the Idaho Association of Health Underwriters, presented **RS 20411**. Mr. Genetti testified the Idaho insurance code was recently modified to allow insurance producers to give rebates of up to $50 per policyholder. This change covered life, property and casualty insurance companies but did not cover disability insurance companies or their producers. In addition, there is no limit on the frequency with which the $50 gift can be given to policyholders. Mr. Genetti said his association is proposing inclusion of disability companies and producers in order to provide a level playing field for all insurance producers, and they propose setting a maximum limit of $100 semiannually, or a $200 limit per year per policyholder. Mr. Genetti said this change will allow insurance companies and producers to conduct their normal business without fear of breaking the current law. The bill will also change the term "policyholder" to "contract holder."

In answer to committee questions, Mr. Genetti said this legislation is consistent with Medicare rules on marketing. He said the expenditures for these rebates are neither administrative expense nor claims expense; rather, they are expenses incurred by an insurance agent or an agency. Mr. Genetti said the semi-annual $100 limitation was decided upon after it became clear that the previous $50 amount had no time limitation and could therefore be awarded many times in any given time period.

MOTION: **Rep. Rusche** moved to introduce **RS 20411**; **motion carried on voice vote**.

H 55: **Dale Higer**, representing the Commission on Uniform State Laws, presented **H 55**. Mr. Higer provided a brief history of the Commission, noting it has been in existence since at least 1919. He explained the advantages of having state uniform law commissions, noting that business and banking transactions, the probate code, and even family law are among the areas affected by uniform laws. Mr. Higer said over 170 uniform acts have been adopted, with 140 of them still in effect.

Explaining the need for H 55, Mr. Higer said there are thousands of unincorporated nonprofit associations in Idaho, with millions of members. Such organizations might include Little League groups, informal rod & gun clubs, woodworking or other hobby clubs, and even homeowners' associations. He said that prior to 1996, when the existing law was promulgated, nonprofit associations did not have entity status and

therefore could not have an identity distinct from the members themselves. Such associations could not sue or be sued and could not own real property; in addition, the question of liability could arise. This legislation is intended to provide remedy for those concerns.

Mr. Higer reviewed the major provisions of H 55, saying it provides definitions and establishes entities as distinct from their members. He explained that since unincorporated nonprofits are not required to make any filings with the Secretary of State, it is difficult to determine who has authority to deal with real property owned by the association. This legislation will remedy that and will also establish that an association is solely liable for its debts and obligations, and that a manager is not liable merely because that person is a member.

Other provisions include a list of actions that need approval by the members, if their bylaws do not provide this, a list of duties of the association's manager, and meeting and quorum requirements. The legislation also specifies a member's or manager's right to information and the procedure for dissolution or termination of an association.

In response to questions, Mr. Higer said these provisions will not be administered by any state agency, since these associations are self-governing. If an issue is not able to be worked out between parties, he said it may have to be resolved in court. Asked whether the nonprofit community or the Idaho Nonprofit Center had been consulted about the legislation, Mr. Higer said he polled attorneys who deal with nonprofit organizations, but found little interest among them. He said there was involvement from nonprofits on a national level during the drafting of this legislation.

Mr. Higer said some associations choose not to incorporate because they do not want to meet the filing requirements and may not want to disclose their membership to the public. Other associations, such as informal hobby clubs, have no need to incorporate and never consider it. Asked whether this legislation may result in more legal action, Mr. Higer said he thinks the legislation is designed to lessen the need for people to go to court.

According to Mr. Higer, 12 states adopted the original 1996 law, and four or five states have adopted these revisions. Mr. Higer said eight states, including Idaho, have introduced the revisions for consideration this year. He reiterated the need for this legislation, saying that parties dealing with nonprofit associations often do not know who has authority to deal with property or conduct other business.

MOTION: **Rep. Thompson** moved to send **H 55** to the floor with a **DO PASS** recommendation. **Rep. Barbieri** argued against the motion, stating the bill will impose further burdens on small unincorporated associations.

ROLL CALL VOTE ON MOTION: A roll call vote was requested on the motion to send **H 55** to the floor with a **DO PASS** recommendation. On a vote of **10 aye and 6 nay**, with one member absent, **the motion passed**. Voting in the affirmative: **Reps. Henderson, Collins, Bilbao, Patrick, Thompson, Guthrie, Smith(30), Rusche, Cronin and Chairman Black.** Voting in the negative: **Reps. Crane, Bayer, Palmer, Barbieri, DeMordaunt and Batt. Rep. Chadderdon** was absent. **Rep. Rusche** will sponsor the bill on the floor.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE

1:30 P.M.
Room EW41
Thursday, February 17, 2011

SUBJECT	DESCRIPTION	PRESENTER
RS20412	Small Business Federal Fund Assistance Act	Rep. Cronin

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Thursday, February 17, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Chairman Black, Vice Chairman Henderson

GUESTS: Dawn Justice, Idaho Bankers Association; Mark Gehrke, Intern

Meeting was called to order at 2:00 p.m. by Rep. Collins, in the absence of Chairman Black and Vice Chairman Henderson.

MOTION: **Rep. Bilbao** moved to approve the minutes of February 15, 2011; **motion carried on voice vote**.

RS 20412: **Rep. Cronin** presented **RS 20412**, explaining that a new RS is being presented to help address some of the concerns expressed about the previous legislation dealing with the Small Business Federal Fund Assistance Act. Rep. Cronin said he and Rep. DeMordaunt met with the Department of Commerce to modify the original bill. In its legislative intent language, the new version calls for businesses who are awarded federal grants to pay back the state loan funds they receive. Recipients of larger federal awards would be asked to pay back several times the amount of their state grant. Rep. Cronin testified that Mark Strait, from the Department of Commerce, had visited with five companies who have received federal grants, and all of them expressed a willingness to pay back the state fund.

Rep. Cronin pointed out that this statute does not appropriate money, since JFAC will determine any appropriation. He testified to the program's success and said the committee can have a broader discussion at the bill's hearing. He said it is his intention to have some of the companies who have received grants testify at that time.

Rep. DeMordaunt was recognized to respond to a question about funding; he stated he believes the source of funding would be the general fund. He noted that this legislation simply establishes the program and attests to its effectiveness. It also provides a mechanism for successful companies to "pay forward" by returning their grant amounts. Rep. Bayer commented that it is his understanding that there was a $150,000 request from the general fund by the Department of Commerce and a $150,000 recommendation from the Governor, from dedicated funds.

In response to further questions, **Rep. Cronin** said the legislation essentially codifies the grant program within the Department of Commerce, but allows latitude in the funding from year to year. Asked whether the "pay it back" provision will be adequate to keep the program funded without further appropriations, Rep. Cronin said the Department does not anticipate that to be the case, and they may still seek an appropriation, although it would possibly be smaller. He said the figure of $50,000 is reduced from the original RS's $150,000 figure to indicate that the program will still be effective even if it needs to be scaled back. Asked whether the reimbursement language, which appears in the legislative intent, should be part of the statute, Rep. Cronin said this gives the Department some flexibility in determining how much companies are willing to pay back.

MOTION: **Rep. Rusche** moved to introduce **RS 20412**. In support of the motion, he said he believes the RS is worthy of a full hearing and should be introduced as a bill.

SUBSTITUTE MOTION: **Rep. Thompson** offered a substitute motion to return **RS 20412** to its sponsor until there is a clearer understanding of the fiscal impact in the future.

Responding to a question from the committee, **Rep. Cronin** said the definition of a "small business" as one having fewer than 500 employees is taken from the federal guidelines for this program. Rep. DeMordaunt stated it would be possible to extrapolate from previous experience and come up with a more refined fiscal note, which could be brought to the committee at the bill's hearing. He said the program may never be fully self-sustaining, but the payback may become significant enough that the allocation will be reduced.

ROLL CALL VOTE ON SUBSTITUTE MOTION: A **roll call vote** was requested on the substitute motion to return RS to sponsor. On a vote of **1 aye and 14 nay**, with two members absent, the **substitute motion failed**. Voting in the affirmative: **Rep. Thompson**. Voting in the negative: **Reps. Collins, Bilbao, Chadderdon, Crane, Patrick, Bayer, Palmer, Barbieri, DeMordaunt, Guthrie, Batt, Smith (30), Rusche, Cronin**. **Chairman Black** and **Vice Chairman Henderson** were absent.

VOTE ON ORIGINAL MOTION: **Acting Chairman Collins** called for a vote on the original motion, to **introduce RS 20412; motion carried on voice vote**.

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

Representative Gary Collins
Acting Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Monday, February 21, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 81	Cosmetology Board's Authority to Discipline & Sanction	Roger Hales, Bureau of Occupational Licenses
H 82	Real Estate Appraisers; Continuing Education Providers	Roger Hales
H 83	Approved Barber Colleges	Roger Hales

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Monday, February 21, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: None.

GUESTS: Roger Hales, Bureau of Occupational Licenses; Jack Lyman, Idaho Housing Alliance

Meeting was called to order at 1:33 p.m. by Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of February 17, 2011; motion carried on voice vote.

H 81: **Roger Hales**, an attorney representing the Bureau of Occupational Licenses and the State Board of Cosmetology, presented **H 81**. Mr. Hales noted the presence of a member of the Board, **Marilyn Cleland**, who was available to answer technical questions. Mr. Hales explained that this bill will allow the Board more flexibility on the types of discipline it can impose and will also add additional grounds, including suspension or revocation of a license from another state and failure to comply with a board order, for which the Board can discipline a licensee. The legislation also deletes some archaic language.

Ms. Cleland was recognized to respond to a question about a national database of licensees. She responded that although there is no national database, the application form does include questions about felonies. **Mr. Hales** added that new applicants are asked a wide range of questions, not just about possible felony convictions.

MOTION: **Rep. Thompson** moved to send **H 81** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Thompson** will sponsor the bill on the floor.

H 82: **Mr. Hales** presented **H 82**, on behalf of the Board of Real Estate Examiners. This bill will establish a $100 fee cap for applications from continuing education providers. Mr. Hales noted the presence of **Brad Janus**, president of the Real Estate Appraisers Board, who was available for technical questions. Mr. Hales explained that real estate appraisers are significantly regulated by the federal government, which requires continuing education courses each year for licensed appraisers. The continuing education courses are offered by for-profit businesses, who must apply to the state Board to get their courses approved. Mr. Hales said last year the Board reviewed about 175 applications from testing entities, a number that has been fairly consistent over the past few years. He said rather than having the licensees bear the cost burden of reviewing the applications from course providers, the Board would prefer to charge providers a fee for reviewing their courses. He also explained that charging a fee is not unusual; surrounding states charge between $50 and $300 for this service. Mr. Hales testified this bill will allow the Board to establish a fee; the exact amount will be determined later and approval will be sought next year for that fee.

In response to committee questions, Mr. Hales said the Board maintains a list of approved providers and said there are probably at least 100 providers on the list. He said each time an education provider submits an application to get a course approved, the fee would be charged. Most providers already submit a check with their applications, so Mr. Hales does not think this fee will reduce the number of providers in the state.

MOTION: **Rep. Rusche** moved to send **H 82** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Reps. Bayer, Crane, Palmer, Barbieri and Batt** requested that they be recorded as voting no on the motion. **Rep. Rusche** will sponsor the bill on the floor.

H 83: **Mr. Hales** presented **H 83**, on behalf of the State Barber Board. This legislation will ensure that Idaho barber colleges are teaching current barber laws and rules. Mr. Hales also noted the presence of **Dennis Bostwick**, chairman of the State Barber Board.

MOTION: **Rep. Cronin** moved to send **H 83** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Cronin** will sponsor the bill on the floor.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Wednesday, February 23, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 130	Immunization Assessments; Amendments	Bill Deal, Department of Insurance
H 131	Health Carrier External Review Act; Amendments	Bill Deal
H 132	Engineers & Land Surveyors	Dave Curtis, Board of Professional Engineers & Professional Land Surveyors

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Wednesday, February 23, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith (30), Rusche, Cronin

ABSENT/ EXCUSED: Rep. Bilbao

GUESTS: David Curtis, Board of Professional Engineers and Professional Land Surveyors; Jack Clark, Idaho Surveyors; Jim Genetti, Idaho Association of Health Underwriters; Mitch Scoggins, Idaho Department of Health & Welfare; Roger Seiber, Capitol West; Kurt Stembridge, Glaxo Smith Kline Pharmaceuticals; Shad Priest and Bill Deal, Department of Insurance; Benjamin Davenport and Max Pond, Risch Pisca; Diana Cox, Givens Pursley; Lyn Darrington, Regence Blue Shield of Idaho; Julie Taylor, Blue Cross of Idaho

Meeting was called to order at 1:35 by Chairman Black.

MOTION: **Rep. Cronin** moved to approve the minutes of February 21; **motion carried on voice vote**.

H 132 **Dave Curtis**, Executive Director of the Board of Professional Engineers & Professional Land Surveyors, presented **H 132**. He stated this bill is the result of two years of work and collaboration among stakeholders. Mr. Curtis listed the objectives of the legislation and explained how each of them is accomplished in the bill.

First, **H 132** provides consistent definitions of terms in five chapters of Idaho Code that relate to surveying, including Highways and Bridges laws, Plats and Vacations law, Corner Record law, Record of Survey law, and Engineers and Surveyors Licensing law. Second, the bill clarifies the requirement that professional land surveyors monument corners when they perform a land survey and record the survey if certain conditions are met. Third, it requires perpetuation of original evidence of the location of a public land survey corner with monumentation meeting current statutory requirements. Mr. Curtis said original evidence monumentation standards did not require magnetic detectability, so some older corner monument markers consisted of charred stakes or chiseled stones, sometimes covered by soil.

Mr. Curtis detailed the remaining objectives of the legislation, namely: It will allow the setting of witness corners or reference points if the original monument is disturbed by construction, will clarify the requirements of a Highway Right-of-Way plat, and will continue to protect property controlling corners and accessories. Finally, the bill will correct an error in the requirement that surveys be conducted to a predetermined minimum accuracy.

Responding to committee questions, Mr. Curtis said he did not believe H 132 will result in any adverse financial impact on the public. In fact, he said, clarification and consistency of definitions may reduce the likelihood of lawsuits over boundaries, thus saving potential legal fees which would be borne by property owners. He testified that recording fees will not increase, and there is no greater recording requirement. Mr. Curtis said this legislation does not change the minimum size of a monument, but it does require that in the event a surveyor finds original evidence of a marker, the surveyor must use a monument that meets current requirements.

In answer to a question about whether an irrigation right-of-way would be included in the definition of "street" on page 4, Mr. Curtis said the definition of "street" was lifted directly from the classifications law. He said he did not think irrigation districts would be impacted by this bill.

MOTION: **Rep. Patrick** moved to send **H 132** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Patrick** will sponsor the bill on the floor.

H 130: **Bill Deal**, Director of the Department of Insurance, **presented H 130**. He explained that last year an immunization assessment bill was passed and the Department of Insurance was asked to oversee and administer the assessment. Mr. Deal introduced **Sandy Metro**, who is the administrator of the program. He said that, to date, $10 million has been received for the immunization fund, thanks in large part to insurance companies such as Blue Cross, Regence Blue Shield, and Pacific Source. Mr. Deal said H 130 is designed to meet some minor concerns that have arisen during the first year of the program's operation.

Director Deal stated the bill will provide the Department with authority to us some of the money collected to help pay the costs of operation and will allow the Board to consult with the Department of Health & Welfare to acquire necessary information. It will also allow Health & Welfare to retain any leftover funds at the end of the year in order to offset the assessment for the next year. Mr. Deal said the Board had determined that the list of vaccines approved by the Centers for Disease Control will be the guideline used in purchasing vaccines with the funds. He also said the sunset date is July 1, 2013.

Responding to committee questions, Mr. Deal said the Department of Health & Welfare keeps close track of the immunizations provided to physicians and provides a report in January on numbers from the previous year. Physicians now have one source for immunizations, and the costs are lower than they would otherwise be.

Rep. Rusche commented on the low vaccination rates for children in Idaho, noting that the number of recommended vaccines has increased in recent years. He said Idaho is deficient in its rate of childhood immunization, which puts communities at risk. Asked what the cost of childhood vaccines is, Rep. Rusche said a full complement of vaccines for a child through the first five or six years of life would be $480 to $500. He said if the same vaccines were purchased on the open market, the cost would be about 30% higher.

MOTION: **Rep. Thompson** moved to send **H 130** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Thompson** will sponsor the bill on the floor.

H 131: **Mr. Deal** then presented **H 131**, a bill that deals with an external review process available to an insured if a claim is denied. Mr. Deal said the external review process has been successfully used since the legislation was passed two years ago. He said there were 13 submissions for independent review during the first year of the program; of those, two denials were overturned, eight were upheld, and three were ineligible for review.

Mr. Deal explained details of the legislation, noting that it expands the types of claims eligible for external review, adding denials based on appropriateness, health care setting, level of care, and effectiveness. It also clarifies the definition of urgent care, deletes wording that would permit the imposition of fees, and spells out other provisions related to requests for external review.

Responding to a question, Mr. Deal said there is no appeal mechanism for underwriting or rating. Asked how consumers learn about their right of appeal after a denial, Mr. Deal explained that when a claim is denied by an insurance company, the company must provide the insured with written information on how to file for an independent external review.

MOTION: **Rep. Rusche** moved to send **H 131** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Rusche** will sponsor the bill on the floor.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AMENDED #1 AGENDA
HOUSE BUSINESS COMMITTEE
Upon Adjournment of the House
Room EW41
Tuesday, March 01, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 183	Manufactured Housing	Jack Lyman, Idaho Housing Alliance

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith (30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Tuesday, March 01, 2011

TIME: Upon Adjournment of the House

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Representative(s) Bilbao, Patrick, Palmer

GUESTS: Jack Lyman, Idaho Housing Alliance; Karyn Felix, Floating Feather Mobile Home Park; Landis Rossi & Christine Tiddens, Catholic Charities of Idaho

Meeting was called to order at 3:50 p.m. by Chairman Black.

MOTION: Rep. Cronin moved to approve the minutes of February 23; motion carried on voice vote.

H 183: **Jack Lyman**, representing the Idaho Housing Alliance, presented **H 183**. Mr. Lyman gave a brief history of the Mobile Home Landlord-Tenant Act, noting that it was originally passed in 1981 and has been amended seven times. Idaho Code defines mobile homes as factory-assembled structures built before June 15, 1976 and manufactured homes as those build after that date. Current Idaho Code does not cover manufactured homes. H 183 will extend the existing provisions of the Landlord-Tenant Act to cover both mobile and manufactured homes, and will define terms like rent, rental agreement, fees, utilities, and manager. Mr. Lyman showed the committee pictures of a number of manufactured housing communities and mobile home parks to illustrate the type of housing that is covered by the Landlord-Tenant Act.

Mr. Lyman testified that his organization has met with various interested parties and groups representing tenants in order to seek agreement on changes to the law. He stated that, although complete agreement has not been reached, many of the provisions requested by those groups have been included in H 183. He listed those provisions that were agreed to and said there remain two provisions that were requested but not included in the current legislation. First, it was requested that the number of days a resident has to comply with a termination be extended from three days to 15 days, and the number of days for a notice be expanded from 20 days to 120 days for residents who own their home and need to move it from the community. Second, it was requested that the "Notice to Lienholder-Limit on Back Rent" section be amended to distinguish between tenants who are owners and those who are renters of the home. Neither of these two changes is included in H 183.

Responding to a committee question about the 15-day time frame, given that it takes longer than that to have a tenant evicted, Mr. Lyman said no action can be initiated against a tenant until the 15-day time frame expires. He said most park owners do not want to move tenants out and they will generally do their best to work with tenants in making payment arrangements. If the 120-day time frame were to be adopted, owners would have to wait until that time expired before they could even initiate any legal process. This amounts to a long period of free rent for the tenant. Mr. Lyman said it typically takes between 60 and 90 days beyond the end of the notice period before a tenant can be moved.

Karen Felix, owner of two manufactured home parks in Boise, testified **in support of H 183**. Ms. Felix briefly described the two parks she and her husband own, noting that about half of the homes in each of them are mobile homes, while the other half are manufactured homes. She expressed her concern that the current Mobile Home Landlord-Tenant Act does not apply to the manufactured homes in her communities, and she asked that H 183 be passed in order to correct this.

In response to committee questions, Ms. Felix said manufactured homes are difficult and expensive to move. She said their parks have not yet had someone who is in arrears decide to move the home. Rather, she and her husband try to work with the owner to lay out a payment schedule that will allow the tenant to catch up with the rent payments. In one case, they used the three-day notice provision and then served the 20-day notice, which motivated the tenants to settle on a payment plan.

Landis Rossi, Executive Director of Catholic Charities of Idaho, a nonprofit social service organization, testified on **H 183**, asking that it be amended. Ms. Landis said Catholic Charities has worked for several years to craft language that would work for residents of mobile and manufactured homes, and said this legislation does not contain language that they and others requested. She said H 183 is missing key elements that would provide necessary protections for tenants. Ms. Landis said 20 days is not a reasonable time frame to move a home out of a park, noting that processing a rental assistance request takes more time than that. She said Catholic Charities would support the bill if it could be amended to extend the 20-day notice to a 45-day notice, which would be a more reasonable time frame.

Answering questions from the committee, Ms. Landis said because of her previous experience in working at Health & Welfare, she knows it takes 30 to 45 days to process emergency assistance payments. She did not have specific examples of landlords who are not willing to work with residents but said she could talk with Idaho Legal Aid about this. She explained some of the provisions of the emergency assistance program, including the requirement that there is a child in the home and the requirement that tenants be able to demonstrate they can maintain rent payments going forward.

Asked what the role of Catholic Charities is in a situation where a landlord is not willing to work with tenants, Ms. Landis stated there was a greater problem four or five years ago when park owners were more likely to sell their properties, displacing the tenants without sufficient time to relocate. She said Catholic Charities is interested in housing as an advocacy issue, even though the situation is not at a crisis point as it was a few years ago. She said her organization would hope to amend this legislation next year if it passes in its present form. Ms. Landis said Catholic Charities is the social services arm of the Church, but it does not discriminate based on religious affiliation. She noted that many Catholic parishes have their own programs related to social services.

In response to further questions, Ms. Landis said her organization does not oppose eviction for tenants who are violating park rules. She said their primary concern at this time, given that the park sales are no longer a major problem, is overall fairness, including a fair amount of time for notices to tenants. Asked whether Catholic Charities would extend funds to tenants who cannot pay rent, and then have the tenants pay the funds back to Catholic Charities, Ms. Landis said that may not be an option within the H&W emergency assistance program. She said emergency assistance cannot be paid directly to a client but has to be issued to a landlord or a management company. She said she would estimate that 80% of landlords are probably willing to work with tenants to make payment arrangements.

Mr. Lyman was recognized to conclude his remarks on **H 183**. He said he understands the concerns expressed by tenant groups and others, and he would commit to the Business Committee that his organization will work with Catholic Charities and other social service agencies when tenants are in arrears. He noted, however, that he does not represent all community owners. Mr. Lyman said he would be willing to consider legislation next year. He stated his organization is opposed to allowing tenants to enjoy, in effect, three months of free rent.

MOTION: **Rep. Rusche** moved to send **H 183** to **General Orders**, to amend the language on page 10, line 39. Rep. Rusche proposed changing the 20-day period to a 45-day period, for those who are in arrears on rent.

SUBSTITUTE MOTION: **Rep. Barbieri** offered a **substitute motion**, to send **H 183** to the floor with a **DO PASS** recommendation. In support of his substitute motion, Rep. Barbieri said extending the deadlines is not of much practical value for those who can't pay their rent. He said the time limits seem reasonable. **Rep. Bayer** stated his support for the substitute motion, saying he is hesitant to change the time lines until questions about emergency assistance funding are answered.

VOTE ON SUBSTITUTE MOTION: **Chairman Black** called for a vote on the **substitute motion**. **Motion carried on voice vote**. **Rep. Rusche** requested that he be recorded as voting no. **Rep. Bilbao** will sponsor the bill on the floor.

There being no further business to come before the committee, the meeting was adjourned at 4:35 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA

HOUSE BUSINESS COMMITTEE

Upon Adjournment of the House
Room EW41
Thursday, March 03, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 179	Unauthorized Insurers & Surplus Lines; Amendments	Woody Richards, Surplus Line Association
H 195	Motor Vehicle Dealer & Salesman Licensing; Amendments	Rep. Sims

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi (Batt)
Rep Smith (30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Thursday, March 03, 2011

TIME: Upon Adjournment of the House

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: None

GUESTS: Woody Richards, Surplus Line Association; Mont Crukovich, Broadway Ford; Jeremy Pisca and Renee Wadsworth, Alliance of Automobile Manufacturers; Max Pond, Risch Pisca; Joie McGarvin, Gary Tanner and Victor Villegas, Idaho Auto Dealers Association; Don Anderson and James Cross, Lyle Pearson Company; Ken McClure and Jeff Perry, General Motors; Shad Priest and Kathy Miller, Department of Insurance; Tom Donovan, Office of the Attorney General; Daniel Wiebold, Dan Wiebold Ford; Mike Hanigan, Hanigan Chevrolet; Jim Adas, Lake City Ford

Meeting was called to order at 3:30 p.m. by Chairman Black.

H 179

Woody Richards, an attorney representing the Surplus Line Association, presented **H 179**, noting the legislation was jointly drafted by the Association and the Department of Insurance. Mr. Richards explained that surplus line insurance is written by companies not admitted to do business in the state of Idaho. Surplus line companies offer coverage to parties that cannot obtain coverage from standard companies, for activities such as aviation, ski areas, liquor bars, and high explosives. In other words, surplus line companies are carriers of last resort.

Mr. Richards testified that this legislation arose as a result of the federal Nonadmitted and Reinsurance Reform Act (NRRA), part of the Wall Street Reform and Consumer Protection Act of 2010. H 179 will conform Idaho law to the provisions of the NRRA. Mr. Richards reviewed the provisions of the bill, including a definition of "home state" as the state where the insured maintains its principal place of business or the state to which the greatest percentage of taxable premium is allocated. The legislation provides that premium tax will be paid on the entire property and casualty premium only when Idaho is the insured's home state. Mr. Richards said the goal of the legislation is to retain as much of the premium tax for Idaho as possible. He said he is not aware of any opposition to the bill, which has been widely circulated among interested parties.

Answering questions from the committee, Mr. Richards said the $1 million in premium tax payments from surplus line insurance goes to the General Fund, through the Department of Insurance. He said Idaho law favors buying insurance from "admitted" companies in the state, rather than from surplus line insurers. The reason for this is that policyholders are assured a greater degree of protection in case of loss. If a surplus line insurer becomes financially unable to pay claims or declares bankruptcy, an insured would have to file a claim with the trustee and hope for payment. In the case of financial instability with admitted companies, who are required to meet the stringent requirements of Idaho law, the guaranty association steps in and pays the claims.

Responding to further questions, Mr. Richards said H 179 makes two major changes in Idaho law, which are required by the federal legislation. First, it changes how companies pay premium tax for surplus line insurance. Second, it allows certain commercial customers to more easily purchase surplus line insurance. Idaho law currently encourages customers to purchase from "admitted" companies, but large commercial customers are assumed to be more sophisticated and therefore better able to judge whether they should be buying from surplus line companies.

Asked what the effect would be if this legislation does not pass, Mr. Richards said Idaho would not be able to collect the same premium taxes it has been collecting in the past. He said neither the tax rate nor the amount of premium tax is being increased, but as of July 21 the state law would be preempted by federal legislation and Idaho would not be able to collect the full amount for home state companies.

MOTION: **Rep. Rusche** moved to send **H 179** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Collins** will sponsor the bill on the floor.

H 195: **Rep. Sims** presented **H 195**. She first cited Rule 38, stating that she owns a new car dealership. Rep. Sims said automobile dealerships are individually owned businesses who operate under a franchising system with the manufacturers. She said the Idaho Automobile Dealers Association represents 103 new auto dealers in Idaho who provide 5,000 jobs in the state. Rep. Sims reviewed some provisions of the bill, noting that H 195 extends to two years the time frame allowed for operation of a dealership due to temporary disability or death. It also states the manufacturers may not condition the sale of a dealership to site control, noting that dealers would like to be consulted by manufacturers.

Rep. Sims discussed other portions of the legislation. She said dealers in cities near state borders are aware of the restrictions placed on out-of-country sales and are careful to meet the requirements, and they do not think they should be penalized if a car is later taken across the border to Canada or another country. Rep. Sims pointed out that the legislation deals with warranty work performed by dealerships, saying warranty work is a large portion of many dealers' repair work. She said the dealers want to be compensated for warranty work at the same rate as they charge for retail repair work.

Jeremy Pisca, appearing on behalf of the Alliance of Automobile Manufacturers, an organization made up of 12 different manufacturers who represent 77% of all cars sold in the U.S., testified **in opposition to H 195**.

Renee Wadsworth, representing the Alliance of Automobile Manufacturers, testified on**H 195**. saying her organization has been working with the dealers since December to try and reach agreement on the legislation. She said they have agreed to a large majority of provisions, including accepting the definition of a distributor, agreeing to pay retail rate for warranty reimbursement claims, agreeing to the new time limit for temporary ownership, and agreeing to the export provisions. Despite this significant progress, Ms. Wadsworth said there are still a few areas of disagreement, and she said the bill goes too far in a protectionist direction.

In response to committee questions, Ms. Wadsworth said their primary concern is the section of the bill that bars manufacturers from recovering costs for compensating dealers at retail rate for warranty work. She stated she would prefer to strike the entire paragraph on page 12, lines 13-16. She said her organization is also concerned with language that may prevent manufacturers from offering incentives and bonuses to dealers for selling extended service contracts.

Don Anderson, Chief Financial Officer for Lyle Pearson Company, testified **in support of H 195**. Mr. Anderson further commented on the problem of cars being exported after dealerships have completed a sale meeting all documentation requirements, noting that his dealership was recently assessed $7,000 as a penalty on a vehicle sold last May but later taken out of the country. He testified that the language on page 8, lines 23-32 will alleviate this problem.

Mr. Anderson was asked to comment further on the restrictions on exporting cars. He said it is not a matter of violating federal law when cars are exported. Rather, the penalty is strictly a manufacturer's penalty, even though the manufacturer is not specifically harmed by the transaction. He said the penalty does not apply to used cars but only to new cars, although the penalty can be imposed even as long as one or two years after a dealer sells the car. Mr. Anderson said the manufacturers are able to electronically debit the amount of a penalty from the dealer's account.

Victor Villegos, legal counsel for the Idaho Automobile Dealers Association, testified **in support of H 195** and addressed two concerns raised by the manufacturers. Mr. Villegos said the language requested by the manufacturers, namely, "nothing in this act shall prevent the manufacturer from providing or offering incentives," is unnecessary. He also addressed the manufacturers' concern about the term on page 11, lines 6-12, specifically "existing dealer." He said the requirement of the dealer to submit 100 repair orders in order to establish a reimbursement rate allows the manufacturer to arrive at a fair rate.

Ken McClure, an attorney representing General Motors Corporation, testified **in opposition to H 195**, noting that he appreciates the cooperation of Mr. Wright and others who have been involved in negotiations over this bill. He said the parties were close to reaching total agreement but had simply run out of time, and he asked that the bill be sent to General Orders to be amended. Mr. McClure distributed a document from the American Legislative Exchange Council (ALEC) stating their opposition to laws that interfere with business and franchise agreements. He said any time legislation interferes with or changes the terms between competent parties, increased costs result.

Mr. McClure explained the three areas of disagreement that still remain between manufacturers and dealers. First, there is disagreement on the definition of "coerce" and how it is used throughout the bill. He said the bill would seem to bar even any conversation between a manufacturer and a dealer that implies an indirect benefit for offering an incentive program. Second, the manufacturers object to the phrase "an existing dealer" when setting reimbursement rates. Third, there is still disagreement on the cost recovery issue.

In response to questions from the committee, Mr. McClure said manufacturers should have the right to volume discounts when setting reimbursement rates, and this bill would deny that right. He said manufacturers would like greater clarity on the term "coerce" and on the term "an existing dealer" as used in the bill. Mr. McClure said he does not have amendments ready to submit to the committee at this time, and he said the cost recovery issue will be a difficult one to resolve.

Trent Wright, Executive Vice President of the Idaho Automobile Dealers Association, was asked by the committee whether holding the bill until Monday, March 7, would allow enough time for the parties to reach agreement. Mr. Wright responded that he is certain that 100% agreement cannot be reached, particularly on the issue of cost recovery. He said surcharges are often used by manufacturers as a way to force dealers to do things they may not otherwise want to do. Mr. Wright said the provisions on page 11 to protect manufacturers includes language provided to his association by General Motors. He said if manufacturers are allowed to recover costs through surcharges, they will do so, and he testified the dealers are not willing to modify in any way Section (13) on page 12 of the bill.

Responding to committee questions, Mr. Wright said he does not agree that the term "an existing dealer" would allow dealers to demand a higher compensation rate from manufacturers, based on another dealer's higher charges. He said "an existing dealer" means the specific dealer at his dealership, not other dealers in the area. Mr. Wright said he is certain no further changes can be agreed to with regard to cost recovery because the dealers had already modified their original language and the manufacturers still do not approve of the proposed language. He said sometimes cost recovery is used as a tool for retribution when dealers do not agree to go along with activities demanded by manufacturers. Asked whether similar provisions exist in other states, Mr. Wright said 17 other states have such language; it is his opinion that additional states will adopt similar legislation in the future.

Asked whether he would agree to sending the bill to General Orders, Mr. Wright said he does not think changes can be made to one section of the bill without substantially changing other sections. He said even if agreement could be reached on the three remaining areas of dissention, other parties could propose additional amendments during General Orders.

MOTION: **Rep. Bilbao** moved to **HOLD H 195 to a time certain**, to Monday, March 7, 2011, in order to give interested parties more time to reach agreement.

Jeff Perry, Director of State Governmental Affairs for General Motors, testified on **H 195**, saying he has been involved in almost 100 discussions in the last two years dealing with legislation in various states. He noted that, in his experience, Mr. Wright has been the most cooperative among all his state contacts, and he indicated that he has not intentionally put up any roadblocks to the legislation. Mr. Perry said he does not believe the parties are at an impasse with regard to the cost recovery issue. He testified the manufacturers do not believe they should pay full retail repair costs, since warranty work generally constitutes the largest share of repairs at dealerships.

In answer to questions from the committee, Mr. Perry said the 100 repair order language is commonly used across the country when setting reimbursement rates. He said General Motors offers dealers a couple of different options for reimbursement; one of them is cost plus 40% markup, a method that requires much less paperwork. Mr. Perry said the costs involved in manufacturing vehicles are spread evenly across the price of the vehicles. If a particular state steps in and mandates a specific rate for reimbursement, the manufacturers think that rate should be isolated to that particular state only.

Responding to further questions, Mr. Perry said GM dealers are not permitted to turn down warranty work, and he doubts any dealership would do so anyway, because warranty repairs provide a steady source of income. Asked how GM charges for repairs, Mr. Perry said they use the standard book rate rather than an hourly rate for the actual time spent.

Jim Adas, owner of a family-operated car dealership in Coeur d'Alene, testified **in support of H 195**. Mr. Adas explained some of the factors he deals with in his business, including the fact that all the cars he orders have to be built to California emissions standards since he is located near the border with Washington state, which requires California standards. He said he sometimes experiences price increases two or three times per year. He also noted that, because of differing reimbursement rates in neighboring states like Montana and Washington, consumers can sometimes buy a car for a lower price in those two states than they can in Idaho. This creates an atmosphere of unfair competition. Mr. Adas asked the committee to pass the bill as written, saying he believes it is a fair bill for both dealers and manufacturers.

Jim Cross, a partner in Lyle Pearson Company of Boise and Spokane, testified **in support of H 195**. Mr. Cross said dealers are not in a position to fight manufacturers because if they challenge the manufacturers, they may lose their franchises. He echoed what Mr. Adas said about the competitive advantage enjoyed by Montana and Washington because those states do not allow surcharges by manufacturers. Mr. Cross said he supports H 195 because it will create a level playing field across the country.

MOTION WITHDRAWN: **Chairman Black** announced that, according to Mason's Rules, the committee cannot vote on Rep. Bilbao's motion to hold H 195 to a time certain, because Rep. Bilbao is not present. Therefore, the motion is withdrawn.

Mike Hanigan, Hanigan Chevrolet and Hanigan Dodge in Payette, testified **in support of H 195** and urged the committee to pass the bill as written. Mr. Hanigan reported the effects of the recent recession on his business, saying he is doing about half the business he used to do a few years ago. He has cut his expenses as far as possible and has reduced his inventory. Mr. Hanigan said this week he was notified by the manufacturer that he needs to upgrade his facility and they gave him 30 days to contract with an architect or get drawings of the improvements. Otherwise, he will not receive his quarterly payouts from the manufacturer. He stated all dealers want to have facilities of which they can be proud, but improvements need to be undertaken when it is financially prudent and feasible to do so. He also believes he should not be forced to sell the manufacturer's service contract if it is not a good deal for his customers.

MOTION: **Rep. DeMordaunt** moved to **HOLD H 195** to a time certain, to Monday, March 7, and encouraged the parties to try and reach agreement on the remaining points of contention.

SUBSTITUTE MOTION: **Rep. Crane** offered a **substitute motion**, to send **H 195** to the floor with a **DO PASS** recommendation. In support of his motion, Rep. Crane said it does not appear as though the parties can come to any further agreement. Given that fact, he said the bill needs an up-or-down vote in order to put the issue to rest. **Rep. Barbieri** expressed support for the substitute motion, noting that this legislation is not breaking new ground but is simply implementing policy that is present in other industries.

VOTE ON SUBSTITUTE MOTION: **Chairman Black** called for a vote on the **substitute motion**, to send **H 195** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**.

There being no further business to come before the committee, the meeting was adjourned at 6:05 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M or Upon Afternoon Adjournment
Room EW41
Monday, March 07, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 171	Insurance and Trade Practices; Inducements	Jim Genetti, Idaho Association of Health Underwriters
HJM 3	Health Insurance Agent/Broker Commissions	Jim Genetti
H 181	Small Business Federal Funding Assistance Act; Amendments	Rep. Cronin Rep. DeMordaunt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Monday, March 07, 2011

TIME: 1:30 PM or Upon Afternoon Adjournment

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Rep. Thompson

GUESTS: Mark Strait and Brian Dickens, Department of Commerce; Dawn Marie Cardwell, Black Hawk Wind Energy; Randy Pipal, Independent Insurance Agents; Jim Genetti, Tom Shores, and Scott Leavitt, Idaho Association of Health Underwriters; Mark Gehrke, Intern; Alex LaBeau, Idaho Association of Commerce & Industry; Shad Priest and Bill Deal, Department of Insurance; Lyn Darrington, Regence Blue Shield of Idaho

Meeting was called to order by Chairman Black at 1:35 p.m.

MOTION: **Rep. Bilbao** moved to approve the minutes of March 1 and the minutes of March 3 as written; **motion carried on voice vote**.

H 171: **Jim Genetti**, representing the Idaho Association of Health Underwriters, presented **H 171**. Mr. Genetti explained that prior to 2006 insurance producers were not allowed to give anything of value to a client or prospective client that was not specified in the insurance contract. During the 2006 legislative session, this law was amended to allow such gifts if the value did not exceed $50 per policyholder. At that time, health and disability insurance companies and producers were not included in the legislation.

Mr. Genetti testified that H 171 will include health insurance companies and producers in the provision that allows gifts. The legislation also sets a maximum limit for gifts of $100 semiannually. Previously, the amount of a gift was limited to $50 but there was no specification as to how often a $50 gift could be given. Mr. Genetti stated that, in discussion with the Department of Insurance, the conclusion was reached that the $100 semi-annual limit would be based on the calendar year. For ease of tracking and enforcement, $100 can be spent in the first six months of the year and $100 can be spent in the last six months of the year. One further change implemented by H 171 is to change the word "policyholder" to "contract holder" to make it clear that the rebate amount includes only the contract holder of a group, rather than each one of its members.

Responding to committee questions, Mr. Genetti testified that under the previous law insurance producers were not allowed to spend any money on clients. In 2006 the health insurance companies objected to the changes being made, so they were specifically excluded from the bill at that time. Now, health insurance producers want to be included. Asked how the Department of Insurance will be able to track spending by insurance producers, Mr. Genetti said violations of the spending limit are usually reported to the Department by other producers. Mr. Genetti said it is important to set limits on spending because if an agent offers large gifts or other considerations, the buying decision could be unduly influenced by the gift rather than based on the merits of the product. He said if there are no limits, large agencies would have an unfair competitive advantage.

Randy Pipal, representing the Independent Insurance Agents of Idaho, testified **in opposition to H 171**. Mr. Pipal said his organization agrees that health insurance should be brought under the gift provisions, but they disagree with the use of the term "contract holder" in the legislation. According to Mr. Pipal, a person could have multiple policies, such as homeowners, auto, and umbrella liability insurance, and each one of those coverages would be a separate contract. Mr. Pipal also objects to the time limit, which is stated as "semi-annually." He said he would prefer to have this time limit more clearly spelled out in statute; for instance, the bill could have specified a $200 annual limit. Mr. Pipal recommended that no changes be made at this time, and suggested that interested parties should meet during the interim to reach agreement on all parts of the code that need to be changed.

In answer to questions from the committee, Mr. Pipal said it would be his recommendation that the dollar value of gifts should be set by administrative rule from the Department of Insurance, not by code. Asked whether he thought the Legislature should regulate the question of gifts at all, Mr. Pipal said he is aware that there are states which have totally removed rebating provisions from their laws. He said the Independent Agents are neutral on this question, but if the Idaho Legislature chooses to control rebating, he thinks the law should be better written to make the provisions clear and make enforcement easier.

Scott Leavitt, President of the Idaho Association of Health Underwriters, testified **in support of H 171**. Mr. Leavitt said 45 states have some form of rebating provisions that set limits on rebating by insurance producers. He said he supports this legislation because health insurance producers need to be included in the rebating law. He said a "contract holder" is the person who purchases the policy; in group insurance, this is normally the employer. Mr. Leavitt said H 171 will create a level playing field for small and large agencies.

Responding to committee questions, Mr. Leavitt said if he purchases dental insurance, health insurance, and disability insurance, those are three separate lines and therefore three different contracts. He would be considered the "contract holder" regardless of how many contracts he holds. In the case of an employer purchasing coverage, the insured person is the contract holder. Mr. Leavitt said the "semi-annual" time frame is understood to mean first six months and last six months, and the Department of Insurance will promulgate that understanding in their bulletin and will enforce it on that basis. He agreed that other parts of the rebating law may need to be amended, but he said he does not believe the time is right to do so.

Shad Priest, Deputy Director of the Department of Insurance, was recognized to respond to further questions about whether an individual in control of a group health plan could be given a $50 rebate for each of the many members of the group plan. Mr. Priest said a "policyholder" in a group contract is the person who purchases the plan for the group; the covered individual is referred to as a certificate holder. He testified that if the rebating limits were to be addressed through administrative rule, the code would need to be changed to grant the Department specific rulemaking authority to set suitable limits on gifts.

Mr. Genetti was recognized to conclude his testimony on **H 171**. He said the term "contract holder" is not problematic because there is only one contract holder, even in the case of multiple types of policies. He said it is important to include health insurance producers in the law, which H 171 will do. Mr. Genetti said he believes there should be some limitation set on rebates, but the current $50 limit is vague, since it could allow a $50 gift every day. He urged the committee to pass H 171, saying it will help insurance agents conduct their business more efficiently.

MOTION: **Rep. Rusche** moved to send **H 171** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Black** will sponsor the bill on the floor.

HJM 3: **Jim Genetti,** representing the Idaho Association of Insurance Underwriters, presented **HJM 3**. Mr. Genetti explained that this memorial is a response to the Federal Patient Protection and Affordable Care Act's Medical Loss Ratio (MLR) requirement. This requirement mandates that health care insurers must use at least 80% of individual and small group premiums, and 85% of large group premiums, for payment of claims. Administrative expenses can be paid with the remaining 20% or 15% of premiums. Mr. Genetti testified that, in order to meet this requirement, health insurance companies in the state of Idaho have cut agents' commissions from 30% to 60%. As a result, some producers may stop selling these policies, which will negatively impact Idaho consumers. Mr. Genetti said some predict that as many as 50% of the health insurance agents in the state will leave the business; this amounts to about 4,000 jobs, not including support staff for the producers and agencies.

H 171 supports federal legislation that will move producers' commissions outside the MLR requirements of the federal Act. Mr. Genetti said there is increasing support for federal legislation to accomplish this. He further testified that the National Association of Insurance Commissioners (NAIC) and the National Conference of Insurance Legislators (NCIL) are in full support of this legislation.

MOTION: **Rep. Barbieri** moved to send **HJM 3** to the floor with a **DO PASS** recommendation. In support of his motion, Rep. Barbieri said he believes this is the first of many carve-outs that will be implemented to deal with the Federal Patient Protection and Affordable Care Act. He said by the time Congress acts to change the law, many insurance agents will have lost considerable income because of the new requirements. **Rep. Rusche** noted that, although he will support the memorial, he believes health insurance will soon become readily available on the Internet, as other types of insurance are now.

VOTE ON MOTION: **Chairman Black** called for a vote on the motion to send **HJM 3** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Barbieri** will sponsor the bill on the floor.

H 181: **Rep. Cronin** presented **H 181**, a new version of a previous RS brought by the Department of Commerce dealing with the Idaho Small Business Federal Funding Assistance Act. Rep. Cronin explained that he and Rep. DeMordaunt had worked with representatives from the Department of Commerce to address the concerns expressed by the committee when they heard the previous version. He noted that the current program, which this bill seeks to extend, has been extraordinarily successful, returning $60 to Idaho's economy for every dollar expended. Rep. Cronin said there are at least 19 other states with similar programs.

Rep. Cronin reviewed the changes from the original legislation, noting that the Fiscal Note on the Statement of Purpose was modified to remove specific amounts that might be requested. He stated the appropriations will be determined in the JFAC Committee, and noted there will be some money available from the business development fund, which is discretionary money in the Department of Commerce. Rep. Cronin explained that the legislation's intent language includes provisions for repayment of grants by successful applicants, thereby replenishing the fund. Companies that are granted larger awards will be expected to repay a larger amount to the Department's fund. Rep. Cronin noted there is no stable source of funding for this program, but by establishing this fund the Legislature will create an "empty bucket" that can potentially be filled from various sources such as appropriations and federal grants.

Rep. DeMordaunt testified **in support of H 181**, noting that the Department of Commerce needs this legislation in order to implement the program. It will also allow the Department to request that grantees repay their grant monies. Rep. DeMordaunt stated how valuable this grant program is to small businesses,

saying that it engages organizations who can help business owners overcome the considerable obstacles to attracting start-up funds. He testified that if the repayment provisions had been in place a few years ago, the Department's fund could have been repaid over $106,000 to help fund future grants.

Dawn Marie Cardwell, representing Black Hawk Wind Energy, testified **in support of H 181**. Her company developed a new technology for small wind turbines, and she has experienced how expensive it is to get a product to the point of being commercially viable. She said grants have been essential to her success.

Becky Logue, founder of Dental R.A.T., testified **in support of H 181**. Ms. Logue's company designed and manufactures a hands-free foot-operated computer mouse for dental hygienists. She said this device is transferrable to other industries, but her company does not currently have the financial backing to get the product more widely distributed. Having applied for a federal grant last fall, Ms. Logue said the process was intense and time-consuming. She said the availability of a Department of Commerce grant to help her pursue financing would provide an incentive to continue pursuing further federal grants.

Alex LaBeau, Idaho Department of Commerce and Industry (IACI), testified **in support of H 181**, noting it is an innovative and self-sustaining program. He stated the program will allow companies who are already operating in Idaho to grow and become more successful.

Mr. LaBeau was asked whether he refers entrepreneurs to the Small Business Development Center or the six regional economic development agencies. He said IACI does not receive a lot of inquiries, but many times they will refer to the Department of Commerce. He stated he would be most willing to help with the Department's grant program if needed.

During committee discussion, **Rep. Bayer** commended Reps. Cronin and DeMordaunt for working with the Department of Commerce to produce H 181, a bill that settles some inherent funding problems. He noted that the funds for this program come from both general fund dollars and dedicated funds, and he suggested that this be made clear by adding "or dedicated" on page 1, line 35, following the word "general." Both Reps. Cronin and DeMordaunt expressed support for this change. Rep. Bayer suggested that the bill could be sent to the floor with a "do pass" recommendation, with the understanding that the clerical error could be corrected. **Rep. Rusche** said the change seems to be more than just a typographical error, but if it can be determined that the omission is a clerical error, the committee could send it to the floor.

MOTION: **Rep. Rusche** moved to send **H 181** to the floor with a **DO PASS** recommendation, requesting that the clerical error be corrected as follows: On page 1, in line 35, after the word "general" insert the words "or dedicated." **Motion carried on voice vote. Reps. Cronin** and **DeMordaunt** will sponsor the bill on the floor. Rep. Cronin recognized **Brian Dickens** and **Mark Strait**, Department of Commerce, and thanked them for their help in crafting H 181.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Wednesday, March 09, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 207	Idaho Building Code; Amendments	Rep. Luker
S 1127	Real Estate License Law; Amendments	Jeanne Jackson-Heim, Idaho Real Estate Commission
S 1123	Prohibition of Real Estate Transfer Fees	John Eaton, Idaho Association of Realtors

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon(Chadderdon)
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi(Batt)
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Wednesday, March 09, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Reps. Chadderdon and Crane

GUESTS: Dave Goins, Idaho News Service; Jeanne Jackson-Heim, Idaho Real Estate Commission; Bobby Ball, Americans with Disabilities Act (ADA) Task Force; John Eaton and Miguel Legarreta, Idaho Association of Realtors; Leon Duce, Association of Idaho Cities; Robbi Barrutia, State Independent Living Council; Mark Gehrke, Intern; Jim Trent, State Farm Insurance; Phil Barber, American Insurance Association; Paul Jackson, Farmers Insurance; Tim Woodard, Idaho Association of Building Officials; Jason Blais, City of Boise; Tiffany Southwick, ADA Task Force; Kelly Pearce, Division of Building Safety; Kerry Ellen Elliott, Idaho Association of Counties; Roger Howard, Living Independence Network; Kris Ellis, Idaho Land Title Association; Jeremy Pisca, Idaho Association of Realtors; Dawn Justice, Idaho Bankers Association

Meeting was called to order at 1:32 p.m. by Chairman Black.

MOTION: **Rep. Smith (30)** moved to approve the minutes of March 7; **motion carried on voice vote**.

H 207 **Rep. Luker** presented **H 207**, a bill that would amend the Idaho Building Code dealing with the issuance of building permits for improvements, extensions, or alterations of existing buildings or residences. Rep. Luker said the bill was generated after a conversation with a constituent who was frustrated by his inability to make changes to buildings in a cost-effective manner without having to update the entire building to meet current building codes. H 207 would grandfather unaffected parts of existing structures from having to meet current codes when the structures are expanded or altered. The new portions of the structure will still be required to conform to existing code. Rep. Luker explained there is also an exception for specific safety issues, but those requirements have to be stated up front on the building permit.

Rep. Luker acknowledged that he is aware of some concerns with accessibility and the need to meet requirements of the Americans with Disabilities Act (ADA). He said ADA is federal law, but not all ADA requirements are contained in building codes. He said he would be willing to amend H 207 to add the words "subject to building code requirements regarding accessibility" or similar language that would address this issue. Rep. Luker said he does not necessarily agree that some of the concerns could be taken care of by modifying the current building code, noting that codes are continually changing and local building officials have discretion with regard to code requirements.

Pointing out the current code exceptions for historic buildings, for which updates are not mandated unless there are safety hazards, Rep. Luker pointed out that newer buildings probably are more likely to conform to code requirements than historic buildings. He said it is his opinion that people would appreciate clear guidelines

to require identification of specific safety issues that need to be remedied or accessibility requirements that need to be met.

Responding to committee questions, Rep. Luker said a structure that is modified will still be subject to zoning requirements. He said the ADA requirements are not enforced by the state, except for those which are included in building codes. Asked whether he is willing to require existing portions of buildings to meet ADA access requirements, Rep. Luker said there are exceptions even under the current code and he would like to see how this bill will work once it is in effect. He said he is willing to send the bill to General Orders for amendments that will address the concerns about ADA requirements.

Asked whether the building code requirements will be able to hold up a project indefinitely if a safety hazard exists, Rep. Luker explained that having the requirements clearly spelled out on the building permit will allow the permittee to either meet the requirements or to challenge them. It was pointed out that the word "includes" on line 20 should be "include," and Rep. Luker agreed that if the bill is sent to General Orders that word will be changed. Rep. Luker testified he had visited with members of the insurance industry, and it is their opinion that this legislation may result in reduced insurance rates. For instance, if one part of a building is damaged by fire, the building's entire wiring system will not have to be ripped out and replaced, thus resulting in lower costs.

In response to a question about whether the lack of modern smoke detectors would be considered a "safety hazard" for purposes of this bill, Rep. Luker said he would not consider it a "substantial safety hazard." However, if a building official requires smoke detectors, that will be clearly stated on the building permit for the project. Rep. Luker said perhaps the bill should add the wording "distinct life safety hazard" or similar language.

Bobbi Ball, Executive Director of the Americans with Disabilities Act (ADA) Task Force, testified **in opposition to H 207**, saying it will exempt a builder or business owner from meeting codes in an unaltered part of a building. Ms. Ball responded to a previous question that arose concerning enforcement of ADA requirements, saying that since people with disabilities are included as a protected class, the U.S. Department of Justice and the Idaho Human Rights Commission could enforce ADA provisions under the Human Rights Act.

Ms. Ball said she understands that modifications can be expensive, but she said the federal ADA law already has mechanisms in place to address financial burden. She said a public accommodation is not required to do anything that is not "readily achievable," which means able to accomplish without much difficulty or expense. For example, a building official may require two restrooms in a building that has only one, but under ADA requirements, a single, accessible unisex bathroom would be permitted. She noted that many building officials do not know this portion of the law; she said the real problems arise with enforcement and lack of education. Ms. Ball also spoke to the "path of travel" issue, which deals with access to newer parts of a building through older, unaltered portions of the building. She explained the "20% rule" which requires that 20% of a project's total cost be used for access to get people from outside to the primary function area. Ms. Ball said H 207 is in direct conflict with federal law.

Responding to questions from the committee, Ms. Ball said the ADA Task Force often advises builders and contractors on ADA issues, and she said the Task Force is well respected and trusted. Ms. Ball said she also serves on the Idaho State Building Code Board, which has an appeals process in place; however, in her experience the appeals process is not utilized as it should be. Asked whether an appeal can be made on a financial basis if an improvement is too expensive, Ms. Ball said she is not sure an appeal can be filed based on financial hardship.

John Eaton, Government Affairs Director for the Idaho Association of Realtors, testified **in support of H 207**, with one caveat. Mr. Eaton said his organization was involved in 2002 legislation that created the Idaho Building Code Board, part of which specifies that local jurisdictions have the ability to be more restrictive than Idaho state building codes. This provision is necessary in order to allow a municipality like McCall, for instance, to have higher requirements for snow loads on roofs. Mr. Eaton said that over time some jurisdictions have taken this provision to an extreme, adopting local codes that are much more restrictive. Mr. Eaton said he would not support amending the accessibility requirements, which are necessary for federal compliance. He said he would support sending H 207 to General Orders to incorporate amendments from Rep. Luker.

Leon Duce, representing the Association of Idaho Cities, testified **in opposition to H 207**. He said the Association had worked for a number of years to create a well-rounded Building Code Board, which includes contractors, building officials, and members of the general public. Mr. Duce said the Board was created by the Legislature to deal with amendments to the building code. It would be his suggestion that any changes envisioned by Rep. Luker's bill should be handled by the Board. If changes are handled in this manner, Mr. Duce said it will limit the inconsistencies among various building officials.

Robbi Barrutia, Executive Director of the State Independent Living Council (SILC), testified **in opposition to H 207**. Ms. Barrutia recounted her efforts in developing consistent statewide accessibility standards for buildings covered under the ADA and Fair Housing Act, culminating in **H 611**, passed by the 2000 Legislature. Ms. Barrutia said H 207 is an attempt to modify accessibility provisions, and she said it could put state code in opposition to federal requirements. Ms. Barrutia testified that the bill may affect the 20% rule for path of travel improvements. She also agreed that some mechanism is needed to educate building officials on the requirements of the ADA. Ms. Barrutia encouraged the committee to hold H 207 in committee.

Asked whether Rep. Luker's proposed amendments to the bill would satisfy her concerns, Ms. Barrutia said philosophically she opposes any attempt to change what has been put in place after much work and considerable difficulty. She said she is willing to work with Rep. Luker to assure that no further accessibility issues arise if H 207 is passed.

Paul Jackson, appearing on behalf of Farmers Insurance Claims Department, testified **in support of H 207**, noting that this legislation could result in lower claims. Mr. Jackson said if the bill is sent to General Orders he would support inserting the word "repair" on lines 9, 15, and 26, in order to include repairs in the list of changes to existing buildings. Mr. Jackson said sometimes an insured experiences damage to his or her home and is not able to pay for required repairs that are not covered by insurance. If this bill passes, it will benefit policyholders.

Tim Woodard, representing the Idaho Association of Building Officials (IDABO), testified **in opposition to H 207**, stating that almost all its language is already in the building code. He stated that modifications to the building code should be handled through the Board so they will be reviewed by a broad spectrum of people. Mr. Woodard offered responses to previous committee questions, saying in his opinion this bill will create even more ambiguity from one jurisdiction to another. He said IDABO has worked hard to gain consistency, and this bill would be a setback. Mr. Woodard said the Building Safety Professionals of Southwest Idaho can help with training in code enforcement issues.

Responding to a question about his organization's role in training code enforcement personnel in ADA requirements and exceptions, Mr. Woodard said they would help facilitate such efforts. He said there is a distinction between the ADA provisions and

the accessibility provisions in the building code. He said Idaho's building officials are not able to enforce ADA requirements unless those requirements are also inthe building code. Explaining the term "safe harbor," Mr. Woodard said if a state's building code is at least as stringent as federal requirements, that code is considered a "safe harbor" document.

Jason Blais, City of Boise Building Division, testified **in opposition to H 207** as written. Mr. Blaze said the legislation is confusing when it uses the term "substantial safety hazard." He said one code official may interpret the lack of a smoke detector to be a "substantial safety hazard" while another official may not. He said the 20% rule is necessary to assure that building accessibility will be upgraded over time, as improvements are implemented.

Kelly Pearce, Director of the Division of Building Safety, testified on **H 207**. Mr. Pearce said it is his opinion that issues should be addressed by the State Building Code Board, which can address concerns in more extensive hearings. Mr. Pearce said that process includes a defined lapse of time between hearings and approval of any modifications. Mr. Pearce noted that, since the bill's sponsor is willing to amend the bill, perhaps some concerns will be addressed in the amending process.

Roger Howard, Executive Director of the Living Independence Network Corporation (LINC), testified on **H 207**. Mr. Howard testified that LINC works with SILC and the ADA Task Force, and stated he helped craft 2001 amendments to the Building Code Act to address accessibility issues. Mr. Howard said if H 207 is sent to General Orders, he would be happy to help craft language to ensure that accessibility issue are addressed without placing building owners in a bind when they cannot comply with ADA or building code requirements.

Rep. Luker was recognized to close his testimony on **H 207**. He thanked all parties for their input on the bill, and said his intent is not to circumvent the ADA laws. Rep. Luker said he still has concerns about building officials interpreting ambiguous sections of building codes and suggested there should be language requiring a "specific substantial safety hazard" before modifications are required on existing sections of a building. He said H 207 affords some protection to a property owner by requiring code officials to specify what the hazard is at the time of permitting. Rep. Luker said he would agree to send H 207 to General Orders with the following changes: On line 19, insert "subject to building code requirements governing accessibility" and on line 20, change "includes" to "include."

MOTION: **Rep. Palmer** moved to send **H 207** to General Orders. **Rep. Patrick** testified in favor of the motion, saying he believes the legislation is necessary but should be made a little more clear. He said he is aware of projects that have not been able to move forward because of building code restrictions.

SUBSTITUTE MOTION: **Rep. Rusche** offered a substitute motion, to **HOLD H 207** in committee. In support of the substitute motion, **Rep. Rusche** said this could chip away at the rights of people who occupy or use a particular building that is being modified. **Substitute motion failed on voice vote**.

Rep. DeMordaunt asked for a clarification on the original motion, questioning whether the intent of the motion is to allow the bill's sponsor to work with other interested parties on amending language. **Rep. Palmer** stated his motion was simply to send H 207 to General Orders.

VOTE ON ORIGINAL MOTION: **Chairman Black** called for a vote on the original motion, to send **H 207 to General Orders**; **motion carried on voice vote. Rep. Luker** will sponsor the bill on the floor and will draft amendments.

S 1127: **Jeanne Jackson-Heim**, Executive Director of the Idaho Real Estate Commission, presented **S 1127**. Ms. Jackson-Heim said the bill does two things. First, it clarifies the license law concerning broker price opinions, and second, it clarifies for

unlicensed people what constitutes activity requiring a real estate license. She said the bill does not impose any new requirements but seeks to clarify the law in these areas. She testified this will make the existing requirements easier to find and therefore will cut down on enforcement issues. Ms. Jackson-Heim said the phrase "acting in this state," which relates to activity that requires an Idaho license, is currently found in the back of the license law; this legislation will move the definition to the definitions section. S 1127 also deals with "broker price options," commonly called "BPOs" in the real estate industry. Currently this term is defined in the Real Estate Appraiser Act, and Ms. Jackson-Heim said licensees are confused because BPOs are not mentioned in the real estate license law.

Ms. Jackson-Heim said the Real Estate Commission and the Real Estate Appraiser Board have worked together over the past year to prepare a joint guideline document and to draft this legislation. She said the bill will add the term Broker Price Opinion and a reference to the Appraiser Act in the definitions section. There is also new language pertaining to broker supervision, making it clear that a broker must be the conduit for all money paid in a real estate transaction.

In answer to a question about BPOs, Ms. Jackson-Heim said this type of analysis is not the same as an appraisal, but is a broker's opinion on the market value of a property.

MOTION: **Rep. DeMordaunt** moved to send **S 1127** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Barbieri** requested that he be recorded as voting nay. **Rep. DeMordaunt** will sponsor the bill on the floor.

S 1123a **John Eaton**, Governmental Affairs Director for the Idaho Association of Realtors, presented **S 1123a**. Mr. Eaton said this legislation is brought by the National Association of Realtors and the American Land Title Association. The bill will outlaw the recording of transfer fee covenants, commonly known as "private transfer fees." Mr. Eaton said nationally there has been rapid growth in these fees, which are just beginning to surface in Idaho. He said 19 other states have already outlawed them, and 20 states are considering similar legislation.

Mr. Eaton explained that "private transfer fees," are imposed as the result of a covenant recorded by a builder or investor before a property is transferred for sale. The covenant requires a 1% transfer fee to be paid back to the company, which then splits it with the builder. The fee is required every time the house transfers for the next 99 years. Mr. Eaton said there is no benefit to the landowner, the buyer, or the seller; rather, the 1% goes back to the company recording the covenant.

Mr. Eaton explained provisions of the legislation, noting that it defines an association, a transfer, a transfer fee, and a transfer fee covenant. It also defines what a transfer fee covenant shall not include; for instance, a fee paid back to a condominium association upon a sale would not be considered a transfer fee. He also testified that the language on line 45, page 2, is intended to assure that there is no implication that previously recorded covenants are legally enforceable. Mr. Eaton said one company claims to have $600 billion under contract nationwide with these covenants in place, and there are multiple lawsuits to settle whether or not the covenants can be removed. He also said the company is attempting to patent this process so they would be the only ones who could use it.

In answer to committee questions, Mr. Eaton said the covenant is not enforceable on the first resale, so when the developer sells the property, he does not pay the fee. On the next sale, however, the 1% fee kicks in. He pointed out that the only party who can remove the covenant is the person who put it in place. Asked whether there is a federal regulatory body that could intervene in this practice, Mr. Eaton testified that the Federal Housing and Finance Administration published guidelines last summer stating that they will not lend on properties containing these covenants.

The net result will be that lenders will not extend financing on properties if they can't sell the loans to Fannie or Freddie. This provision, however, will probably not help small community banks.

MOTION: **Rep. Bayer** moved to send **S 1123a** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Bayer** will sponsor the bill on the floor.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AMENDED #1 AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Tuesday, March 15, 2011

SUBJECT	DESCRIPTION	PRESENTER
	Presentation: The Use of Performance Measures	Rakesh Mohan, Director Office of Performance Evaluations
	Presentation: 2009 Energy Code	Kelly Pearce, Director Division of Building Safety John Chatburn Office of Energy

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon(Chadderdon)
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi(Batt)
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
Phone: (208) 332-1139
email: mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Tuesday, March 15, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Rep. Cronin

GUESTS: Ken Baker, K Energy; John Chatburn, Office of Energy; Eric Adams, City of Sun Valley; Mark Gehrke, Intern; Roger Seiber, Capitol West

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

MOTION: **Rep. Bilbao** moved to approve the minutes of March 9, 2011 as written; **motion carried on voice vote**.

Rakesh Mohan, Director of the Office of Performance Evaluations, appeared before the committee to present information on **the use of performance measurements** conducted by his office. Mr. Mohan gave a brief overview of the Office of Performance Evaluations (OPE), noting that it is a small agency that operates separately from the Legislative Services Office. OPE reports directly to the Joint Legislative Oversight Committee (JLOC), which is a bipartisan committee of four appointed senators and four appointed representatives. Mr. Mohan said OPE's mission is to perform objective, in-depth, unbiased studies of state agencies or policies. He said any legislator can request or suggest a review project for OPE's consideration, but the projects must be approved by and are assigned by JLOC. The upcoming committee meeting, scheduled for March 28-29, will include consideration of possible performance evaluations.

Mr. Mohan gave examples of the types of evaluations performed by his office, including the Medicaid provider payment system that was implemented in June 2010 and the recent study of the Idaho Transportation Department. He noted that the Medicaid study is a short-term project, since the Legislature has requested findings before the end of the session.

Citing 2005 legislation that revised statutes dealing with reporting requirements, Mr. Mohan said state agencies are now required to report to their germane committees annually, unless the committee chairman requires biennial reporting. This face-to-face, oral reporting fosters greater accountability and credibility, and often leads to a dialogue about the performance measures of individual agencies. Mr. Mohan said one benefit of performance measurement is that it helps policymakers know whether public agencies are doing a good job or not; in addition, it can aid in clarifying legislative intent. If there is a common understanding about expectations, both the agency and the Legislature can determine what is feasible and what the cost will be.

Mr. Mohan listed a number of factors to keep in mind with regard to performance measurement, noting that it is inherently a political process. He said the process needs to be simple, understandable, accessible and affordable. Performance data should be one of the factors used to make policy, budget and program decisions and to trigger questions, but not necessarily to find all the answers. Mr. Mohan said performance goals and targets should be set on a multi-year basis, and

measurement tools should be different depending on whether they are intended for external or internal reporting. Finally, there should be training on reporting and using performance information.

Responding to committee questions, Mr. Mohan said it is the clear intent of the 2005 legislation that all agencies report directly to the germane committees. He said the agencies set the performance measures, based on the mission of the agency or the stated purpose of the particular program. Mr. Mohan said the process is two-way; the agencies are responsible for the performance measures, but it is the role of the Legislature to ask questions and suggest new measures.

Rep. Bayer, a member of JLOC, was recognized to explain the process from the committee's standpoint. He stated that both JLOC and OPE are nonpartisan and their reports are as politically neutral and objective as possible. **Chairman Black** announced his intention to be more attentive to the agency reporting requirements and more exact in the expectations placed upon agencies. Mr. Mohan volunteered to be present at any future committee meetings during which agency performance measures would be presented.

Mr. Mohan was asked to explain the procedure to follow if a legislator wished to request an evaluation. He responded that the legislator should write a simple one-page letter to the Office of Performance Evaluations, outlining the background of the request and giving some contextual information to support it. The letter should be submitted to Rep. Bayer and Sen. Werk, with a copy sent to OPE; the approval of the Speaker is not required. He said if there are specific questions, those should be listed as well. He reiterated the fact that any evaluation must first be approved by the Joint Legislative Oversight Committee. **Rep. Bayer** noted that the most important aspect of any proposal is to make sure it is the best possible presentation, well formulated, with supporting documentation, since JLOC does not amend or alter proposals.

In response to further questions, **Mr. Mohan** said OPE looks at all factors that may affect the performance of an agency or program. In the case of the Medicaid provider payment system, OPE is aware that the system had changed hands and they will take that into account. He said a typical time frame to complete a performance evaluation is seven to nine months, but in the case of the Medicaid study, the Legislature requested questions to nine very specific questions and asked that the study be completed before the current session ends.

Kelly Pearce, Director of the Division of Building Safety (DBS), presented information on the **2009 International Energy Conservation Code** (IECC). Mr. Pearce began by outlining a brief chronology of Idaho's adoption of the IECC, beginning with the enactment of the 2009 American Recovery and Reinvestment Act, which resulted in the eventual adoption of the 2009 IECC by the Idaho Legislature, effective January 1, 2011. The usual process was followed, including written notification of interested parties and two hearings to be held not less than 60 days apart. Mr. Pearce noted that amendments to the IECC were adopted in consideration of the log home industry, which had pointed out adverse effects of the code on their industry. He also testified that "implementation" refers only to those areas throughout the state where the Division has jurisdiction, and he pointed out that the Division has been involved in a cooperative effort with other parties to provide training for contractors throughout the state.

Steve Keys, Deputy Director of DBS, presented information comparing the 2009 code with the previous 2006 code. Mr. Keys explained the basic changes in the 2009 code, including new requirements for caulking, sealing and insulation on duct work. Other changes include a specification that 50% of the lighting in a building has to be high efficiency, and an eliminatiion of the trade-off credit for high

efficiency HVAC equipment. Mr. Keys explained that new requirements for duct insulation and testing were put in place because it was discovered that contractors were not doing a very good job in this area. He said the Division is attempting to better train contractors to perform the necessary duct sealing.

Asked whether the Legislature has the authority to reject certain portions of the 2009 IECC, Mr. Keys said the Building Code Board has the authority to amend codes. He said anyone can suggest amendments to the Code and those are considered when new editions of the Code are adopted.

Jerry Peterson, HVAC Program Manager at DBS, provided some information about the blower door and duct blaster provisions of the Code and testified that his department had provided classroom and field training to approximately 20% of the HVAC industry. Mr. Peterson explained the HVAC licensing program, which was instituted in 2004. He said there have been more technological advancements in the area of HVAC than in any other of the building trades. Mr. Peterson said he works with the Association of Idaho Cities and the Idaho Association of Building Officials to provide ongoing training for contractors. Training is important, he said, because proper implementation depends upon proper training.

Answering committee questions, Mr. Peterson said installers who are able to install an Energy Star system should also be able to perform any necessary tests. He said there are some jurisdictions throughout Idaho that require testing; of those, some allow the installer to perform the test, while others require a third party inspector.

Leon Duce, representing the Association of Idaho Cities (AIC), was recognized to comment. He stated his organization supports educational efforts and they are working with other states in this regard, including Washington, Oregon, and Montana. AIC has been involved in prior enforcement efforts as well as contractor training provided both before and after enforcement of new Code requirements. Mr. Duce said AIC has sponsored energy code training beginning last year, and has advertised these opportunities through the use of posters and flyers distributed to suppliers, architects, engineers, and elected officials. He also pointed out the availability of a resource entitled "The Value of Energy Codes for Elected Officials" which is on the Association's website under the "video on demand" link. Mr. Duce stated they had certified and trained six individuals to serve as Energy Code Ambassadors throughout the state; these ambassadors can provide technical assistance on energy codes and building requirements.

In answer to a question about enforcement levels, Mr. Duce said the vast majority of Idaho cities are enforcing the Code. He testified that if a municipality offers building permits, it is required to adopt the building code, the Residential Code, and the Energy Code.

John Chatburn, Office of Energy Resources, was recognized to comment. Mr. Chatburn said that one of the conditions of receiving funds from the American Recovery and Reinvestment Act of 2009 was that states had to adopt the most recent building codes. Mr. Chatburn said Idaho received over $40 million, $17 million of which was dedicated to schools. He said energy audits were performed on 894 schools and lighting improvements were made in classroom buildings. Mr. Chatburn testified that the federal government required compliance within eight years of the Code's enactment, and he said Idaho is at 90% compliance.

Other projects included solar panels for schools at nine separate locations around the state, and an experimental program that will convert biomass to energy. Another $5 million was dedicated to research by Micron on LED lights that will be produced in Boise. $9.4 million was devoted to 71 projects in smaller cities and counties. Mr. Chatburn said $500,000 was given to the Division of Building Safety to provide

building codes training and database development, and $800,000 will be spent upgrading windows and doors in the Borah Building, the only state-owned building that has not received a substantial energy retrofit. Some grant money was also used for an appliance rebate program; Mr. Chatburn said as of March 14, 2011, a total of $1,213,825 had been sent out in appliance rebates.

Mr. Duce introduced **Ken Baker** of K Energy, who has worked with the Association of Idaho Cities for a number of years, **Eric Adams**, a building official from Sun Valley, and **Sharon Patterson**, who is helping to provide energy training throughout the state.

Chairman Black thanked all presenters who addressed the committee and said he hoped those citizens who have expressed concern over the implementation of the 2009 Energy Code will realize that the requirements will actually result in substantial cost savings that will ameliorate the extra costs they incur.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
1:30 P.M.
Room EW41
Thursday, March 17, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 280	Farm Equipment; Idaho Dealer Statutes	Rep. Jim Patrick
H 266	Health Care Transparency Act	Rep. Bob Nonini
H 256	Idaho Plumbing Code	Kelly Pearce, Director Division of Building Safety

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon (Chadderdon)
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi(Batt)
Rep Smith (30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

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MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Thursday, March 17, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: None.

GUESTS: The sign-in sheet will be retained with the minutes in the committee's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

Meeting was called to order at 1:37 p.m. by Chairman Black.

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

H 280: **Rep. Patrick** presented **H 280**, a new version of **H 134**, a bill heard earlier by the committee. Rep. Patrick testified that, although not all parties are totally happy with the changes, he believes H 280 strikes a good balance.

Ron Moore, President of the Pacific Northwest Hardware & Implement Dealers Association, representing dealers in Oregon, Washington, Alaska and Idaho, testified **in support of H280**. Mr. Moore testified that H 280 is an update of the dealer statutes first put in place in 1975 and updated in 1990 and 2005. He recounted some of the changes contained in H 280, including reducing the "three times damages" provision down to "two times damages" and removing language dealing with negotiating depreciated value. Mr. Moore reviewed definitions and exemptions, noting that the bill clarifies the definition of "used equipment." He also testified that lines 35-37 on page 9 are being stricken because they are not consistent with current needs. Mr. Moore said his organization has worked on this legislation for two years.

Responding to committee questions, Mr. Moore said one issue the dealers were not able to settle was reimbursement for transportation costs associated with warranty claims, on which dealers usually do not break even. Another request was for some kind of dealer compensation when manufacturers make direct sales; no agreement was reached on this provision so it was not included.

Randy Stewart, Vice President and General Manager of Mountain View Equipment Company, testified **in support of H 280**. Mr. Stewart said dealer contracts are written strictly in the manufacturers' favor, and if a dealer does not sign the contract, he loses the right to sell that manufacturer's equipment. Mr. Stewart said dealers have tremendous investment in buildings, capital expenditures, and employees, and H 280 will help protect dealers.

In response to a question about how manufacturers would sell equipment if the dealers did not sign these contracts, Mr. Stewart said manufacturers have been selling fleet accounts directly to end users, but they still need the dealerships to supply warranty parts and service. If an individual dealer does not sign a contract, Mr. Stewart said the manufacturer can easily find another dealer to sign.

Ed Schlofman, representing Schlofman Tractor Company, a family-owned business for over 65 years, testified **in support of H 280**. Mr. Schlofman provided examples of difficulties with manufacturers, noting that it became necessary for him to hire legal counsel recently after his attempt at negotiation with a manufacturer was not successful. He testified it took two years to settle this matte. H 280 limits the time frame for settlement to 90 days. Mr. Schlofman pointed out that dealers are required to indemnify manufacturers for problems with equipment, even though the dealers did not design or build the equipment.

Doug Burks, representing Burks Tractor, testified **in support of H 280**, despite his belief that government should not interfere in contracts. Mr. Burks testified that he has been in business for 30 years, and he has seen the relationship between manufacturers and dealers change precipitously in recent years. He noted that, in the case of a cancellation of a dealership agreement and subsequent disagreement over the return of parts, the manufacturers request a change of venue to have the matter litigated in their state of domicile, rather than here in Idaho. Mr. Burks said it has taken him a year and a half just to receive acknowledgment of a mutual termination of a contract. Mr. Burks explained the difficulties he experiences with financing arrangements when he is required to list every contract as a contingent liability. He stated that in the current climate the dealers assume all financial burdens, and manufacturers bear none.

In answer to questions from the committee, Mr. Burks said it may seem that manufacturers need dealers, but in fact the manufacturers do not think in those terms, since they can place their products in "big box" stores for sale there. In this case, dealers still have to provide service and warranty work, but they are paid only about 70% of what the warranty claim is. Mr. Burks said Case New Holland recently sold 27 units directly to a California vineyard, undercutting the dealer's price by 20%. Under the terms of the franchise agreement, the dealer is still required to provide service for such units, or his contract is cancelled.

Asked whether dealers can be liable for the debt on a piece of equipment bought on contract, Mr. Burks said that is a provision of the contracts the manufacturers are asking dealers to sign, although only 47% of them have signed since 2006. Mr. Burks said non-recourse loans can become recourse loans if a customer alleges that the dealer did something wrong or if the equipment does not work properly. Asked about the "death of dealer" provision, Mr. Burks said manufacturers can re-sign a contract with the heirs of a deceased dealer in order to allow the business to continue, but the manufacturer is not required to do so. If an heir chooses not to sign, the manufacturer is then required to buy back the equipment, but Mr. Burks said he does not know whether that is a contingent liability on their books as well.

Mr. Burks was asked whether Case dealers across the United States have united in their efforts to negotiate with the manufacturers. He replied that the dealer council attempts to do so, but the manufacturers generally do what they want to do. Because of other dealers' willingness to pick up contracts with manufacturers, the dealers do not seem to have any leverage.

Rep. Patrick was recognized to conclude testimony on **H 280**. He testified that the contingent liability issue is a major stumbling block. He noted it is a major accomplishment to have gotten independent dealers to agree on the provisions of H 280, and he said this could be as close to total agreement as is feasible.

MOTION: **Rep. Batt** moved to send **H 280** to the floor with a **DO PASS** recommendation. She said the government has already inserted itself into the issue of dealer contracts. Rep. DeMordaunt argued against the motion, asking why the government is involved in this process at all. He stated the opinion that protectionism ultimately hurts consumers by driving up prices. He also expressed concern about the

definition of "equipment" as stated in the bill, saying it could include items such as lawn mowers, not just agricultural equipment.

SUBSTITUTE MOTION:

Rep. DeMordaunt offered a **substitute motion**, to **HOLD H 280** in committee.

Arguing in favor of the original motion, **Rep. Guthrie** testified the equipment business is a tough business, and he stated that equipment dealers will never be reimbursed for their actual costs. He also noted there was not a great amount of opposition from the manufacturers, leading to the conclusion that there is some comfort level among them with regard to H 280. **Rep. Barbieri** agreed that the state already has inserted itself into the dealership issue. **Rep. DeMordaunt** argued in favor of his substitute motion, saying it is crucial to understand how "equipment" and "dealer" are defined in this bill. **Rep. Patrick** said he did not see any reference to lawn mowers or any four-cycle gas engines. He pointed out that a dealer has to have a certain percentage of farm equipment in order to be included under this section of Code.

VOTE ON SUBSTITUTE MOTION:

Chairman Black called for a vote on the substitute motion; **substitute motion failed on voice vote**.

VOTE ON ORIGINAL MOTION:

Chairman Black called for a vote on the original motion, to send **H 280** to the floor with a **DO PASS recommendation**; motion passed on voice vote. **Rep. Patrick** will sponsor the bill on the floor.

H 266:

Rep. Nonini presented **H 266**, legislation that would establish a website for health care data, to be managed by the Department of Insurance and made available to the general public. Rep. Nonini testified there is a need for transparency with regard to consumer-directed health care, and he stated that both federal and state requirements have been enacted, especially the past five years. He said the website would provide estimates of the cost of the 25 most common procedures and the amount of insurance reimbursements, which will aid consumers in making informed choices. Rep. Nonini said at least 30 other states have established such websites and showed the committee a listing of costs taken from Utah's website. Rep. Nonini said Blue Cross/Blue Shield of North Carolina has been posting costs of drugs, office visits and other services since 2008.

Rep. Nonini distributed informational sheets (see Attachment 1) comparing the actual "rack" charges at four medical facilities and listing the negotiated rates as well as the portion that would be paid by a patient with a typical 80/20 policy. He pointed out the substantial discrepancy in price among the four facilities and said this information would allow the public to be more informed when choosing a facility. Rep. Nonini reported that software developed by 3M is already available for this purpose, and this "Price Point" software is used in Utah, Oregon, South Dakota and a number of other states. He said the Department of Insurance estimates the cost of setting up the website at approximately $15,000. He stated he understands this legislation will not create a consumer-driven health care environment overnight, but it will help patients assess projected expenses for certain treatments.

Rep. Rusche commended Rep. Nonini for making an attempt to set up a system to provide greater information to health care consumers, but cautioned that the project is not as easy as it may seem. He said some of the data that would be required simply does not exist.

Responding to committee questions, **Rep. Nonini** said it is his intention to have the Department of Insurance work out the details of this plan, and he said Director Deal and Deputy Director Priest are confident they can do so. The plan will be updated annually. Rep. Nonini said the $15,000 cost will be part of the Department of

Insurance budget. Asked whether health care consumers could get this same comparative information on their own, without having a government entity set up to help them, Rep. Nonini agreed that consumers could do so on their own. He noted, however, that he thought it was well worth the effort to have this kind of program administered through the Department of Insurance.

Bill Deal, Director of the Department of Insurance, was recognized to respond to questions. He said the Department has had good guidance from other states who have similar comparative rate programs in place. He also stated it is probably a good time to begin the process of setting up such a program, since it will most likely be a component of any upcoming health care reform measures. He said the software is not exceedingly expensive, and the Department has an excellent programmer who will be able to implement the program.

Rep. Nonini was recognized to respond to a question about how the website would take into consideration the fact that most medical procedures involve charges from multiple providers. He said that information can be indicated on the website by use of certain disclaimers, and he stated that the Price Point software will allow an apples-to-apples comparison of charges.

Mr. Deal was recognized to respond to questions about how the Department anticipated collecting data from hospitals and clinics, and also how they planned to ascertain the 25 most common procedures. He replied that some of this reporting is already available. He said that, based on the Department's recent successful experience in collecting immunization data, a program that started from ground zero, he is confident the Department will be able to gather the necessary information to build a successful program. He acknowledged, however, that since H 266 had been printed only a few days ago, there are still questions that need to be answered.

Rep. Nonini responded to further questions, saying many of the details can be worked out by the Department of Insurance in cooperation with insurance companies and health care facilities. Rather than waiting another year to implement health care transparency, he encouraged the committee to move forward with this bill as a first step. He noted that it is the clear intent to cover major health carriers and medical facilities, not companies like AFLAC and auto carriers. He said the Department can exclude auto carriers and other insurers who should not be included in the legislation. Asked whether some information should be included about quality of care, Rep. Nonini said the Price Point software can also report quality outcomes; he would prefer to leave that to the discretion of the Department.

Asked why he decided to work through the Department of Insurance for this program rather than through the Idaho Hospital Association, Rep. Nonini said IHA had not moved forward with this effort and they would be better able to respond to that question. In response to an inquiry about liability for erroneous information on the website, Rep. Nonini said he has full confidence in the Department to work through these kinds of issues. He said the "25 most common procedures" refers to the most common around the state, not in each individual facility.

Phil Barber, representing the American Insurance Association, a group of property casualty insurers, testified on **H 266**, noting that he was also speaking on behalf of Farmers Insurance, PCI, ICRMP, and State Farm. Mr. Barber pointed out that property and casualty insurers should not be included in this legislation and suggested that its provisions should more properly be inserted into the chapter regulating health insurance. He asked that properly and casualty insurers be specifically excluded from the requirements in H 266.

David Lehman, representing Kootenai Medical Center, testified on **H 266**, stating that although Kootenai Medical Center is neutral on the legislation, they have some problems with the language and some questions about how it would apply to

hospitals and health care providers. As an example, Mr. Lehman pointed out that a literal reading of line 24 on page 1 would suggest that the Director of the Department of Insurance would be setting rates, since it says he "shall determine the charges." He also noted some ambiguity in the use of the term "expects" to charge, stating that a database of charges is always based on real or actual charges, not on charges that a facility "expects" to charge in the future. Mr. Lehman expressed some concern with implementation in light of provisions of the Patient Protection and Affordable Care Act, and asked how a state law might overlay or affect upcoming federal mandates. Finally, Mr. Lehman said the costs will be far higher than what had been discussed, and he said provider groups should not be assessed to pay those costs.

In response to committee questions, Mr. Lehman said patients sometimes "shop" for pricing before they make health care decisions, and some prices are available on facilities' websites. Asked whether the "expected" price referred to the figure that would be given to someone inquiring about the cost of a procedure, Mr. Lehman said that price would have to be based on actual charges but not on future expected charges. He agreed that Kootenai Medical Center has begun preparing for the upcoming federal reporting requirements, which will include cost figures, and he is confident that his institution can meet those requirements on a timely basis. He said federal reporting systems may require reporting on all procedures, not just the 25 most common. With regard to the language that states the Director "shall determine charges," Mr. Lehman was asked whether it would be more clear to state the Director "shall compile and publish" charges. He agreed that change would satisfy the concern.

Lyn Darrington, representing Regence Blue Shield, testified on **H 266**, stating that her company has been supportive of health care transparency but is neutral on this particular legislation. She said Regence maintains a website on which members can pull up a procedure to find out the cost and the reimbursement rates, depending on which type of plan is in effect. Ms. Darrington pointed out some questions that have arisen with regard to H 266. For example, when speaking of the 25 most common procedures, are insurers supposed to report their 25 most common procedures or will they be expected to synchronize with hospitals and physicians in determining those 25 procedures? She suggested it might make more sense to have insurance carriers identify the 25 most common, since they have a more global view. She also questioned whether property and casualty insurance carriers would be included in the legislation. Ms. Darrington said Blue Shield is willing to work with the sponsor of the bill to make it more operational.

Responding to committee questions, Ms. Darrington said Regence negotiates for different rate structures depending on a number of factors, but members can log onto the website and find out specific information for their specific procedures, depending on their specific coverage.

Toni Lawson, Vice President of Government Relations for the Idaho Hospital Association (IHA), testified on **H 266**, stating IHA's support for transparency and noting that IHA had previously studied the feasibility of using the Price Point software to set up a website. The challenge, according to Ms. Lawson, lies in collecting the necessary data. She questioned the cost figures that had been suggested, saying that Price Point personnel told the IHA its product is based on an already-existing set of statewide data to import into the program. Ms. Lawson said IHA has begun collecting the necessary data to report on inpatient hospital data, but she testified that their estimate of the cost to implement would be close to $100,000. She also noted that the legislation calls for annual reporting, but most other states report on a quarterly basis. She pointed out that "diagnostic related groups" or DRG's, which are referred to in the bill, are not used in outpatient procedures. She said IHA's major concern is that the bill directs them to do something with no

detailed discussion of how they are supposed to do it, what the costs will be, and who will bear those costs. Ms. Lawson expressed the opinion that this plan is not able to be implemented by January of 2012, and she suggested that it would be better to wait until specific federal expectations are known so health care facilities are not expected to report multiple data sets to multiple entities.

In answer to questions from the committee, Ms. Lawson said her company has not yet moved forward with a website because they did not have the necessary data sets. She confirmed that their goal is to have one in place in the next 24 months. Asked whether she would consider this legislation an unfunded mandate, Ms. Lawson said it could be. She said some other states already had mandated data collection, after which websites were established in those states.

Susie Pouliot, Chief Executive Officer of the Idaho Medical Association (IMA), testified that the IMA is supportive of transparency but is remaining neutral on **H 266**. Ms. Pouliot said her organization is unsure of their role and unsure of the information that will be required to be collected. She said the bill refers to DRGs but physician services are not coded in this manner. She also said there is some concern from their legal counsel about anti-trust violations if they have to collect data from physicians and physician partners.

Responding to questions, Ms. Pouliot said the IMA represents approximately 2,500 to 2,800 physicians. She said the average size of a typical clinic or practice in Idaho varies, but most of them are larger than four doctors.

Rep. Nonini was recognized to conclude his testimony on **H 266**. He responded to the concerns of those opposing the bill, pointing out the language that excludes auto insurers and noting that opponents are ignoring full sections of the bill. Rep. Nonini reiterated that his intention is to create a framework for health care transparency and allow the Director of the Department of Insurance to fill in the framework. He also testified that every one of the 38 states who have similar websites had established their websites because their state legislatures had passed legislation requiring it. Responding to the idea proposed that the Idaho Hospital Association might be able to administer Idaho's website, Rep. Nonini noted that the Association does not allow all hospitals in the state to become members, so non-member hospitals would not be able to be controlled by the Association.

Rep. Nonini testified that since the bill's introduction on Friday, March 11, only Regence Blue Shield had approached him and offered to work with him on the bill. Other parties testified that they support transparency but they have not shown a willingness to provide it or help make it a reality. This legislation simply asks for a framework to be established, which will provide the first move toward transparency. Rep. Nonini said similar websites have been available for years in 38 other states. H 266 will offer consumers an opportunity to become aware of charges from various providers and will encourage them to assume a sense of responsibility for their health care charges. He said it is his hope that increased transparency will inject more free market principles into health care.

MOTION: **Rep. Henderson** moved to send **H 266** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Rusche** offered a **substitute motion to HOLD H 266** in committee. Arguing in favor of his motion, Rep. Rusche recalled that the 2006 Legislature passed H 738 with the intent of establishing a health quality planning commission and a health data exchange. While the intent of H 266 is excellent, he said the vehicle is flawed. Rep. Rusche said that, based on his 12 years' experience as medical director of Regence Blue Shield, he believes the necessary data cannot be made available by January 2012. He agreed with earlier testimony that reporting on diagnostic-related groups may not be appropriate, and said the data from Utah is the result of almost 20 years of data acquisition by the Utah health data committee,

a government entity. Rep. Rusche said the Utah committee has an operating budget of $2.5 million per year, some of which is offset by selling data to the federal government and hospitals. He expressed the hope that a workable plan could be built in Idaho but asked that more standard terminology be used for reporting.

Rep. Bilbao invoked Rule 38, noting that he serves as a member of a hospital board, but said he will be voting on the bill. Rep. Bilbao argued **in favor of the substitute motion**, saying he has concerns with reporting issues, particularly for small hospitals like his.

Rep. Crane argued **against the substitute motion**, saying passage of H 266 will help move the insurance companies and the hospital association down the path of establishing the necessary database. He pointed out that most of the parties said they would be willing to do so, and this legislation will serve to move them in that direction. He said this will benefit both the health care community and Idaho's citizens. **Rep. DeMordaunt** argued **against the substitute motion**, saying this is a good first step in arriving at health care transparency.

Rep. Patrick expressed his **support for the substitute motion**, saying this legislation mandates health care providers and insurance companies to provide data that may not be readily available. This will require them to hire more people in order to comply. He said this would be similar to the myriad federal and state rules and regulations with which banks are required to comply.

ROLL CALL VOTE ON SUBSTITUTE MOTION:

Chairman Black called for a roll call vote on the substitute motion, to **HOLD H 266** in committee. **On a vote of 6-10, substitute motion failed**. **Voting in the affirmative:** Reps. Bilbao, Patrick, Guthrie, Smith (30), Rusche, and Cronin. **Voting in the negative:** Reps. Henderson, Collins, Chadderdon, Crane, Bayer, Thompson, Barbieri, DeMordaunt, Batt, and Chairman Black. Rep. Palmer was absent and excused.

ROLL CALL VOTE ON ORIGINAL MOTION:

Chairman Black called for a roll call vote on the original motion, to send **H 266** to the floor with a **DO PASS** recommendation. **On a vote of 10-6, motion passed. Voting in the affirmative:** Reps. Henderson, Collins, Chadderdon, Crane, Bayer, Thompson, Barbieri, DeMordaunt, Batt, and Chairman Black. **Voting in the negative:** Reps. Bilbao, Patrick, Guthrie, Smith (30), Rusche, and Cronin. Rep. Palmer was absent and excused.

H 256:

Steve Keys, Deputy Director of the Division of Building Safety, presented **H 256**, saying it is the result of meetings held with interested parties after **H 75** was held in committee earlier this session. He said a meeting was held on February 18 to address concerns, and noted that Reps. Crane, Palmer, and Batt were present at the meeting. Mr. Keys said the problems with H 75 and the proposed Idaho State Plumbing Code (ISPC) were voiced during the meeting as well as through written testimony submitted to the Board.

Mr. Keys outlined the significant changes in H 256, saying it clarifies that cities must adopt the ISPC together with amendments adopted by the Board. It lays out the process that must be followed in order to amend the code, including at least two public hearings and notification to affected parties. It allows cities to further amend the code to better suit local conditions by utilizing the procedures in H 256, and it gives cities the authority to adopt fees. Finally, the ISPC limits the requirement for water treatment loops in new residences to homes built using slab-on-grade construction or those with finished basements.

In response to a question, Mr. Keys said the Idaho State Plumbing Code was developed after the plumbing industry expressed the belief that all provisions applying to them should be included in one code. Mr. Keys said plumbers also think there should be one consistent code that applies across the state.

Leon Duce, testifying on behalf of the Association of Idaho Cities, testified on **H 256**. He said his Association was present at the February 18 meeting. Mr. Duce said some alternative wording was discussed to address their concerns, but after he learned that DBS would bring new legislation he put any amendments on hold. After seeing the new legislation, H 256, Mr. Duce said the Association decided not to oppose the bill but instead to offer amendments, which he said will address the problems in the bill.

Mr. Duce reviewed his proposed amendments, noting the addition of language to clarify that the ISPC would be enforced only for plumbing systems under the jurisdiction of the state of Idaho. Another suggested change is to specify that local governments with the authority to adopt and enforce plumbing codes should do so by adopting an ordinance, and to allow local governments to contract with a public or private entity to administer enforcement of their plumbing code. If a city or local government wants to adopt an alternative code, it must go through the same procedure as amending the ISPC, including notification and public hearing requirements. Other proposed changes are offered to make it clear that the state can adopt the ISPC and local governments would have the ability to adopt and enforce a code equivalent to the Idaho State code. Mr. Duce said this will give local governments a little more local control of their citizens, contractors, builders.

Responding to committee questions, Mr. Duce agreed that under H 256 cities would be allowed to adopt other codes as long as they are equivalent to the Idaho State Plumbing Code. He said he was present at the meeting on February 18, but he did not testify. The proposed amendments were not presented at that time but the concerns they attempt to satisfy were expressed at that meeting.

Cash Olson, Senior Plumbing and Mechanical Inspector for the City of Nampa, testified **in favor of amending H 256**. Mr. Olson said Nampa uses both the 2006 International Plumbing Code and the 2006 Uniform Plumbing Code, which allows plumbers and design professionals to adapt to particular situations. He said Mr. Duce's proposed amendments will give them the same opportunities.

Eric Adams, a building official from Sun Valley, testified that he sees the amendments as a way to move forward with the legislation, noting that amending **H 256** will satisfy his concerns and those of other jurisdictions. Mr. Adams said the UPC, the IPC and the ISPC are all good codes, but said they would like the ability to adopt local equivalent standards that will address constituents' needs. He asked the committee to either send H 256 to General Orders for amending or to hold the bill committee.

Responding to questions, Mr. Adams said he is in favor of a consistent code to be used across the state, but he is not sure the ISPC is the answer. He said if a city or other jurisdiction prefers to use another standard code which is equivalent to the ISPC, they should have that option. Mr. Adams said the proposed amendments will set the ISPC as a uniform standard, but will still allow local jurisdictions to adopt other standard codes. He said the wording in H 256 does not give cities that option.

Rep. Crane pointed out the language on page 1, lines 37-42, which allows cities to use a different standard if they wished, as long as that standard is not lower than the ISPC. He said this language was agreed upon in order to meet the crux of the objections to the previous bill. **Rep. DeMordaunt** agreed that the bill already addresses this concern. Mr. Adams said there are still issues such as the required water softener loop, which is not necessarily a life safety issue but rather a matter of convenience. He said cities should have the opportunity to adopt equivalent standards.

Asked why the proposed amendments were not brought to the February 18 meeting, Mr. Adams said the concerns were expressed at that meeting, but when the

draft of the new legislation came out, it took away the cities' option to adopt other codes if they wished. He said he has no desire to further delay this legislation but hopes the committee will move forward with H 256 by including the amendments.

Gilbert Pond, Pond's Plumbing and Heating in Meridian, testified **in support of H 256**. Mr. Pond said the cities who are objecting to the ISPC are interested in retaining their local control. He said local jurisdictions can amend the ISPC to conform to local needs such as depth of pipes in certain climates. However, it is important to have a base code, the ISPC, under which all plumbers would be trained. Mr. Pond asked that H 256 be adopted as drafted.

Lane Triplett, a plumbing instructor who worked on the committee responsible for formulating the Idaho State Plumbing Code, testified **in support of H 256**. Mr. Triplett said plumbing codes exist only to protect the health and well-being of citizens. He said teaching apprentices the plumbing codes takes 165 hours per year, and having one uniform code would be best. Mr. Triplett said there is a provision within the code that allows for alternative plumbing systems, although they need to be approved by the proper jurisdictional authority. This authority could be the state, the Division of Building Safety, or even a city. He asked the committee to approve H 256 as written.

Steve Keys was recognized to conclude testimony on **H 256**. He again expressed the desire of the plumbing industry to have consistency across the state so they would not be depending on multiple codes. He said H 256 would give local authorities the ability to amend the ISPC code based on local conditions, and the process to do so would not be overly burdensome. Mr. Keys said he has negotiated in good faith, and he asked the committee to move forward with H 256 as drafted.

Responding to a question, Mr. Keys said that most codes include a provision, either implicit or explicitly stated, allowing local jurisdictions to approve alternate means of construction. He said a contractor or building owner would need to address the authorities and request that they consider such alterations.

MOTION: **Rep. Palmer** moved to send **H 256** to the floor with a **DO PASS** recommendation; **motion carried on voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 5:30 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Monday, March 21, 2011

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: None

GUESTS: Candie Kinch and Mike Brassey, Idaho Life and Health Guaranty Association; Phil Barber, American Insurance Association; Scott Leavitt, Idaho Association of Health Underwriters; Cameron McFadden, Title One; Pam Jackson, Farmers Insurance; Kris Ellis, Idaho Land Title Association

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

H 283: **Jim Genetti**, appearing on behalf of the Idaho Association of Health Underwriters, presented **H 283**, a redraft of the previously-considered **H 171**. Mr. Genetti explained that current Idaho code allows life, property and casualty insurance producers to give gifts of up to $50 to a policyholder or prospective policyholder. However, there is no stated limit on the number of times the $50 can be spent, and the code does not cover disability insurance producers and companies. H 283 will allow health insurers and producers to operate under the same requirements as other producers, and it will set a limit of $200 that can be spent on gifts in a calendar year.

MOTION: **Rep. Cronin** moved to send **H 283** to the floor with a **DO PASS** recommendation; **motion carried on voice vote**. **Rep. Black** will sponsor the bill on the floor.

S 1087: **Kris Ellis**, appearing on behalf of the Idaho Land Title Association, presented **S 1087**. Ms. Ellis said she has been working with the Department of Insurance to determine how escrow fees are calculated and therefore regulated. She pointed out language on page 2, lines 25-27, noting that this current language, which is being stricken, is not how the industry sets fees and rates. The language being added on page 1, lines 37-39, will allow the fees to be determined by rule.

MOTION: **Rep. Collins** moved to send **S 1087** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Collins** will sponsor the bill on the floor.

S 1090: **Mike Brassey**, representing the Idaho Life and Health Insurance Guaranty Association, presented **S 1090**. Mr. Brassey testified that the Guaranty Association is a nonprofit organization formed in 1977 when Idaho adopted model legislation for guaranty associations. He said the newer 1997 version of model law needs to be implemented in order to bring Idaho into closer conformity with surrounding states, most of whom have adopted the current laws.

Chairman Black asked Mr. Brassey to give a brief overview of the history and function of the guaranty association. Mr. Brassey explained that the association exists to service a member insurer's covered policies and provide coverage to policyholders when a member insurer is found to be insolvent and is ordered liquidated. The association collects money only when it needs to, as a result of insurers going into liquidation; there are two separate assessments, one for administration and one for payment of claims. Mr. Brassey said once an insurer has been through a liquidation, the assessments end, and any remaining funds

can either stay with the association or be refunded to the member insurance companies. He also explained that member insurers can take up to 20% of the assessments they have paid as a premium tax credit in the five years following the assessment.

Mr. Brassey testified that S 1090 is a replacement of existing law, and said it is approved by the Department of Insurance as well as all insurers domesticated in Idaho and the National Association of Life Insurance Companies. He noted the bill had passed the Senate without objection, but since then the American Insurance Association had raised some concern with part of the bill dealing with common law rights of subrogation, on page 14, lines 18-29. Mr. Brassey explained that occasionally worker's compensation insurers enter into a structured settlement with a claimant, and as part of that settlement, the claimant will end up as the holder of an annuity policy, purchased by the worker's compensation company. If the annuity company goes out of business, this law will give the guaranty association the right to recover the amount they pay on the claim from the worker's compensation company.

Phil Barber, representing the American Insurance Association, testified on **S 1090**, stating that the bill significantly changes the law of subrogation as it affects worker's compensation insurance carriers. Mr. Barber said subrogation occurs when one party pays the obligation of another, in which case the payor will stand in the shoes of the person who had the obligation to pay. He said the proposed section 41-308 would grant a right of subrogation to the guaranty association against persons who owe no obligation to the failed annuity company, employers, and workers compensation insurers. Mr. Barber explained that the worker's comp company bought an annuity in good faith, thereby satisfying the terms of the settlement agreement; therefore, the company is an innocent party and should not have a subrogated claim brought against it. Mr. Barber proposed two possible amendments to S 1090, stating that neither he nor any of his contacts had realized there was a problem in the bill until recently.

Mr. Brassey was recognized to testify further about the legislation. He said the situation may arise in which a person is the beneficiary of an annuity policy from a company that goes into liquidation and cannot pay the claim. In that case, if the worker's compensation company has an obligation to pay the beneficiary, and the guaranty association pays the claim because of the annuity company's insolvency, Mr. Brassey believes the guaranty association should be able to collect. He said the guaranty association has never dealt with this situation and has not been able to identify the extent of this problem. In any case, he believes a better solution lies with amending the laws concerning worker's compensation insurance, rather than amending this statute.

Responding to a question, Mr. Brassey said the most recent model language has been in place since 1997 and has been adopted by a number of states. He said the model language states that the guaranty association has the right of subrogation; if that creates a problem, the remedy should be put into the worker's compensation statutes.

Mr. Barber agreed that the model language has been in place since 1997, but he said no one has looked at it and it has not been widely adopted. He said there is some remedy being considered in California and one pending in New Mexico. Mr. Barber said the debate over S 1090 has arisen because there is a leftover, standby, contingent liability in case all streams of payment to a claimant have failed. He reiterated his opinion that the worker's compensation company is an innocent party in the case of an annuity company's default, since it purchased the annuity and paid everything it was directed to pay by the industrial commission.

Mr. Brassey pointed out that in other states there is a requirement that the worker's compensation company stay on the risk even though they have purchased an annuity policy for the claimant. He said Idaho does not have that requirement. He said those other states are concerned that an injured worker may have a policy that would exceed the limits paid by the guaranty association; in that case, the worker would not receive the full amount due to him/her.

In answer to further questions, Mr. Brassey said S 1090 deals only with whether the guaranty association can collect the amount it has paid to a claimant, which would be an amount up to the $250,000 limitation. The legislation does not deal with payments for an injured worker. Mr. Brassey said that Mr. Barber's proposal would require the guaranty association to pay in all cases. He said there are other ways to address the potential problem. For instance, the Industrial Commission could impose a continuing liability as part of the terms of a settlement decision, or the Commission could require a backup annuity to cover in case of possible default.

Mr. Barber was recognized to comment further. He pointed out that, in the case of an annuity company's insolvency, the claimant will receive payments from the guaranty association up to their required amount. This legislation allows the guaranty association to recover those costs, but it will do nothing in terms of paying the claimant any further amounts.

MOTION: **Rep. Thompson** moved to send **S 1090** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Thompson** will sponsor the bill on the floor.

MOTION: **Rep. Smith (30)** moved to approve the minutes of March 17 with two minor corrections: On page 1, change "Steward" to "Stewart", and on page 3, remove the extra space in the middle of the paragraph. **Motion carried on voice vote**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 4:20 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
Upon Adjournment of the House
Room EW41
Friday, March 25, 2011

SUBJECT	DESCRIPTION	PRESENTER
H 299	Idaho Health Carrier External Review Act; Amendments	Steve Thomas, Idaho Association of Health Plans

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Black
Vice Chairman Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon(Chadderdon)
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi(Batt)
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
Phone: (208) 332-1139
email: mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Friday, March 25, 2011

TIME: Upon Adjournment of the House

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Reps. Rusche and Cronin

GUESTS: Steve Thomas, Idaho Association of Health Plans; Lyn Darrington, Regence Blue Shield of Idaho

Meeting was called to order at 11:20 a.m. by Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of March 21 as written; **motion carried on voice vote**.

H 299: **Steve Thomas**, representing the Idaho Association of Health Plans, presented **H 299**, a trailer bill to **H 131**, which was signed into law earlier this week. Mr. Thomas explained that the purpose of the bill is to give Idaho-based self-funded ERISA plans a choice of whether to perform mandatory external reviews under state law or federal law.

Mr. Thomas explained the external review process, which makes an independent review available to a person who has a health insurance claim denied by their insurance company. The external review process is administered by the Department of Insurance, and initially an external review was available only on claims denied because a procedure was deemed not medically necessary or because it was investigational. H 131 has broadened the availability of external review to denials for any kind of claim, including appropriateness, level of care, health care setting, and effectiveness. However, H 131 did not include ERISA-governed plans, leaving those plans to deal with the federal government's Department of Health & Human Services.

Mr. Thomas pointed out the language in the bill on page 1, lines 31-39, which allows the Director of the Department of Insurance to promulgate rules establishing the procedure and provides for an administrative fee to be paid by the benefit plan administrator. Mr. Thomas said Shad Priest from the Department of Insurance had reviewed this legislation and is not opposed to it, and the Idaho Association of Commerce & Industry also is not opposed.

Responding to committee questions, Mr. Thomas said without the passage of H 299, large, self-funded ERISA plans will have to conduct external reviews based on the federal regulations and will not have the option of using the state's external review process. The federal regulations have not yet been issued by the Department of Health & Human Services, and no one knows when they will be forthcoming.

MOTION: **Rep. Henderson** moved to send **H 299** to the floor with a **DO PASS** recommendation; **motion carried on voice vote. Rep. Crane** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 11:32 a.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

MINUTES

HOUSE BUSINESS COMMITTEE

DATE: Tuesday, March 29, 2011

TIME: 1:30 PM or Upon Afternoon Adjournment

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin

ABSENT/ EXCUSED: Reps. Bayer and Cronin

GUESTS: Dave Goins, Idaho News Service; Mike Larsen, Idaho Department of Finance; Dawn Justice, Mike Brassey and Ken Howell, Idaho Bankers Association; Kris Ellis, Idaho Trial Lawyers Association; Max Pond, Risch Pisca; John Eaton, Idaho Realtors Association; Tony Smith, private citizen; Brian Kane, Office of the Attorney General

Meeting was called to order at 3:05 p.m. by Chairman Black.

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

RS 20717 **Brian Kane**, representing the office of the Attorney General, presented **RS 20717**. Mr. Kane told the committee that earlier this session the Attorney General's office had issued a comprehensive mortgage foreclosure report providing an analysis of all the factors at play within the Idaho housing market and foreclosures in the state. He said the three major complaints received from consumers about mortgage foreclosures are: 1) People do not receive notices of the date and time of postponed trustee sales; 2) Foreclosures are occurring before the owners have a chance to effect a loan modification; and 3) Consumers are losing money, time, and their homes to fraudulent modification schemes.

Mr. Kane said the goal of RS 20717 is to give consumers every possible opportunity to keep their houses when faced with foreclosure; the legislation addresses the three major complaints of consumers. First, when a foreclosure sale has been previously postponed, it requires that written notice of the rescheduled foreclosure sale be mailed to the borrower at least 14 days before the rescheduled sale is conducted. Second, it requires that a mortgage modification application form be sent to borrowers, along with easy instructions on how to begin the process of applying for a modification. Mr. Kane testified that a mortgage loan is a sophisticated financial transaction, but many people don't realize how complex the transaction is. The legislation attempts to clearly set out the process of modification, including recording requirements and the time lines and deadlines that need to be met. Third, the legislation states that charging or collecting any fee in connection with mortgage loan modification activities constitutes a violation of the Idaho Consumer Protection Act, unless the person collecting the fee is properly licensed or is exempt from licensing requirements.

Mr. Kane testified that he had worked with almost every group interested in this legislation and, although there may still be some disagreement about portions of the RS, it reflects the best efforts of the regulating entities and the lending community. He said any areas of doubt had been resolved in favor of the homeowner.

Responding to committee questions, Mr. Kane said the Attorney General's office does not involve itself in defending individual homeowners in cases of foreclosure, but if there is an aggregation of complaints against a particular entity, the AG's office would step in and close down the company if necessary. The individual owner still has all legal remedies available to resolve the situation. Asked whether this legislation could be put off until next year in order to reach more accord with interest groups, Mr. Kane said any relief that can be offered to homeowners ought to be pursued now. Mr. Kane asked the committee to introduce RS 20717 and send it directly to the Second Reading Calendar.

Mike Larsen, Consumer Finance Bureau Chief in the Department of Finance, testified **in support of RS 20717**, noting that his office receives and responds to many complaints about mortgage loan modifications. Mr. Larsen said the Idaho Residential Mortgage Practices Act requires parties offering modification to be licensed; in addition, it is illegal to charge a fee up front for modifications. He said RS 20717 will provide information to distressed homeowners about opportunities to get a modification, although some homeowners will qualify for modification and others will not.

Dawn Justice, representing the Idaho Bankers Association, testified **in support of RS 20717**. Ms. Justice said that after reading the AG's report on foreclosures in February, she met with the Attorney General's office to develop legislation that would work for the regulatory industry and would benefit borrowers. Ms. Justice said several meetings were held with title companies and Realtors, both of whom proposed several amendments that were incorporated into the draft legislation.

Kris Ellis, representing the Idaho Land Title Association, testified on **RS 20717**, noting that the only communication her association has had regarding this RS has been from the Bankers Association. Ms. Ellis said it will be up to her industry to implement the provisions of the legislation. She said they had voiced their concerns and had proposed some amendments, but she does not know whether they were accepted. Ms. Ellis said she would like an opportunity to further discuss their concerns.

In response to committee questions, Ms. Ellis said there may be a question regarding the 14-day notice requirement and whether it will actually hurt the consumer. She said she had not met with the Attorney General's office because her industry is regulated by the Department of Insurance, as opposed to the IBA which is regulated by the Department of Finance. She said the Department of Insurance had not been notified of the legislation. She said her industry deals with consumer complaints on a one-on-one basis.

John Eaton, representing the Idaho Association of Realtors, testified on **RS 20717**. Mr. Eaton said the Realtors are neutral on the legislation, although they are not sure what effect the 14-day deadline requirement will have on short sales. He said the goal should be to get a better outcome for the seller and the lender.

Brian Kane was recognized to respond to further questions. Mr. Kane credited the Idaho Bankers Association for taking the initiative to develop the legislation after learning about the foreclosure report. He said all players were involved in the discussions, and he said a one and a half hour meeting was held in the AG's office with title companies, Realtors, bankers, and mortgage servicers. Mr. Kane was asked whether some type of proof that a notice had been received by the consumer should be required. He said the main concern is to have proof that the notice was sent, and he is not sure that even using certified mail will assure with 100% certainty that a notice has been received. Mr. Kane said the effective date of September 1, 2011 was chosen because that is the date by which the bankers could have the necessary systems in place to implement the legislation.

MOTION: **Rep. Patrick** moved to **introduce RS 20717** and send it directly to the **Second Reading Calendar**. In support of his motion, Rep. Patrick said he thinks this legislation will help create a better line of communications with homeowners through the banks, which will benefit both banks and homeowners.

Rep. Barbieri suggested it may be advisable to take more time to study this issue and come up with legislation that is more acceptable to all involved.

SUBSTITUTE MOTION: **Rep. Crane** offered a **substitute motion** to **introduce RS 20717**, with the intention of having the bill returned to the committee for a hearing. On a roll call vote of **4 aye and 10 nay**, with three members absent, **substitute motion failed.** Voting in the affirmative: **Reps. Crane, Palmer, Bartieri, and Batt**. Voting in the negative: **Reps. Henderson, Collins, Bilbao, Chadderdon, Patrick, Thompson, Guthrie, Smith (30), Rusche, and Chairman Black**. **Reps. Bayer, DeMordaunt and Cronin** were absent and excused.

VOTE ON ORIGINAL MOTION: **Chairman Black** called for a vote on the original motion, to **introduce RS 20717** and send it directly to the **Second Reading Calendar**; **motion carried on voice vote**. **Rep. Patrick** will sponsor the bill on the floor.

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

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary

AGENDA
HOUSE BUSINESS COMMITTEE
Room EW41
Tuesday, April 05, 2011

SUBJECT	DESCRIPTION	PRESENTER
	Approval of Minutes	

COMMITTEE MEMBERS

Chairman Black
Vice Chair Henderson
Rep Collins
Rep Bilbao
Rep Chadderdon(Chadderdon)
Rep Crane
Rep Patrick
Rep Bayer
Rep Palmer
Rep Thompson
Rep Barbieri
Rep DeMordaunt
Rep Guthrie
Rep Takasugi(Batt)
Rep Smith(30)
Rep Rusche
Rep Cronin

COMMITTEE SECRETARY

MaryLou Molitor
Room: EW58
Phone: (208) 332-1139
email: mmolitor@house.idaho.gov

MINUTES

HOUSE BUSINESS COMMITTEE

DATE:	Tuesday, April 05, 2011
TIME:	1:30 P.M.
PLACE:	Room EW41
MEMBERS:	Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon (Chadderdon), Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Takasugi (Batt), Smith(30), Rusche, Cronin
ABSENT/ EXCUSED:	Reps. Chadderdon, Rusche, Cronin
GUESTS:	None.

Meeting was called to order at 1:35 p.m. by Chairman Black.

MOTION: **Rep. Bilbao** moved to approve the minutes of April 5 as written; **motion carried on voice vote**.

Chairman Black thanked the committee for its efforts during this session. He acknowledged the Legislative Page, Isaac Best, and the committee secretary, MaryLou Molitor, for their good work.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:40 p.m.

Representative Black
Chair

MaryLou Molitor
Secretary