

MINUTES  
**HOUSE BUSINESS COMMITTEE**

**DATE:** Tuesday, February 07, 2012

**TIME:** 1:30 P.M.

**PLACE:** Room EW41

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

**ABSENT/  
EXCUSED:** None

**GUESTS:** Kurt Stembridge, Glaxo Smith Kline; Marilyn Chastain, Department of Finance; Erik Makrush, Idaho Freedom Foundation; Max Greenlee, Risch Pisca

**Chairman Black** called the meeting to order at 1:35 p.m.

**MOTION:** **Rep. Bilbao** made a motion to approve the minutes of January 31 and the minutes of February 1. **Motion carried by voice vote.**

**RS 20836C2:** **Marilyn Chastain**, Securities Bureau Chief of the Department of Finance, presented **RS 20836C2**, a revised version of the RS she previously presented to the committee. She pointed out the one change made to the legislation, namely, the proposed three-year statute of limitation for the Department to bring enforcement action in the case of misappropriation or mishandling of money. The three-year time period begins from the date of discovery. Ms. Chastain said this time period is consistent with the fraud statute of limitation.

Responding to a question from the committee, **Ms. Chastain** said the legislation deals with both public and private companies, although some private companies are exempt.

**MOTION:** **Rep. Barbieri** made a motion to introduce **RS 20836C2**. **Motion carried by voice vote.**

**RS 20981C2:** **Rep. Thompson** presented **RS 20981C2**. He explained that this legislation amends the Product Liability Code to provide that in any civil action against a manufacturer for harm caused by a product, the claimant must prove that the defendant was the manufacturer of the actual product that caused the harm for which compensation is sought, in order for the defendant to be held liable. Rep. Thompson gave an example of brand name drug companies who can be held liable for the harm done by generic versions of their drugs. He said companies should not have to defend themselves against claims for products they did not produce, sell, or receive income from.

A question was asked about whether the legislation would hold a drug company harmless in a situation where the company licensed one of their drug formulas to a generic manufacturer and later one of the chemicals in the drug is found to cause harm. **Rep. Thompson** said the actual manufacturer of the generic drug would be held responsible. He noted that manufacturers of generic drugs often use different filler ingredients than name-brand drug companies use, and therefore the generic is a different product. He said the company who creates the generic should be held accountable. Asked why the bill was broadly drawn to cover all products and not just pharmaceuticals, Rep. Thompson cited the case of Chrysler being sued for defective seat belts installed in their vehicles, even though Chrysler had not manufactured the seat belts. He said the company producing the seat belts should bear the responsibility for the defect and any harm done because of the defect.

**MOTION:** **Rep. Patrick** made a motion to introduce **RS 20981C2**. **Motion carried by voice vote.** **Reps. Rusche and Cronin** requested that they be recorded as voting **NAY**.

**RS 21069C1:** **Rep. Rusche** presented **RS 21069C1**, legislation setting up a micro enterprise bridge loan program to encourage small business growth in Idaho. Rep. Rusche stated that in the initial stages of a new business, owners often use their personal assets, credit cards, or 401K assets to fund the startup. Before new businesses are developed enough to be attractive to capital lenders, they sometimes reach the end of their own resources and enter into a period of time known as the "valley of death." He acknowledged there are other loan programs, but often they require some capital buy-in from either the new company, a municipality or the state. Rep. Rusche noted this new program would be funded by bonds guaranteed by the state. Each individual loan has a limit of \$35,000, capitalized by bonds backed by state sales tax revenue, up to 1% of state sales tax revenue.

**Rep. Rusche** briefly reviewed some provisions of the legislation, noting that it creates a bridge loan authority, sets up a board and delineates its limited powers, spells out the duties and powers of the commission and provides for a staff to administer the program. It spells out the conditions for loans, the size of loans, and other details of the bridge loan program. It also allows the commission to receive other monies such as gifts and grants. The bonding provisions are specified, including the fact that the bonds will be backed by the state's sales tax reserve. Rep. Rusche expressed the hope that this new program will be able to provide additional capital for entrepreneurs when they cannot acquire traditional loans.

In response to committee questions, **Rep. Rusche** said these loans to new businesses are, by definition, high risk, and the state would be the backup guarantor. He said the lending authority would try to cover any defaults out of their loan proceeds, and the Authority would charge interest rates commensurate with the riskiness of the loans. Asked whether this legislation is part of the Department of Commerce's total package of financial incentives, Rep. Rusche said he has talked with the Director of the Department of Commerce, who thought this program would play some role in the total package. Rep. Rusche said an appropriation of \$75,000 would be needed from the state to start the program, but the goal is to have it be self-sustaining, with proceeds from loans covering its costs.

During further committee discussion and questions, **Rep. Rusche** said he does not have figures about operating costs, but stated the loans will be made at a margin sufficient to cover them. He noted that the actual rates and rules will be developed by the Board, and said he assumed that rates will be considerably higher than the best commercial rates available, since some of these startup businesses will fail. He agreed that this program may be duplicative of some other programs already available, but he said it is a response to concerns from those in the entrepreneurial community that early-stage financing remains an issue.

Asked how this program differs from the Small Business Administration loan program, **Rep. Rusche** said this would be more liberal in making loans available. He said these bridge loans should be made available because entrepreneurs cannot get loans from traditional lenders. He noted that regulatory rules are different for banks than they would be for a state loan program, and testified that some other states have bonded for business development in their states. It was pointed out that Idaho does have a micro loan program available that makes high-risk loans up to \$15,000; these loans are decided upon by a special board of elected officials and private sector people.

Responding to further questions from the committee, **Rep. Rusche** said he does not know whether the \$75,000 startup money will reduce or increase the Department of Commerce's JFAC appropriation. Rep. Rusche said although

economic development agencies do have micro loan programs, the biggest issue is getting the local matching money that is often required. This new program could provide that.

**ORIGINAL MOTION:**

**Rep. Palmer** made a motion to return **RS 21069C1** to sponsor. In support of the motion, he said the state should not be in competition with other businesses who are already providing this kind of financing. In addition, the state would be on the hook for these high-risk loans. **Rep. Crane** stated this program will put taxpayer money at risk for the loans that default, and said the state should not be loaning to businesses that are considered by banks to be too risky. He also said there are existing programs in place that could provide this type of financing.

**SUBSTITUTE MOTION:**

**Rep. Cronin** made a substitute motion to introduce **RS 21069C1**, stating they do hear from businesses about the difficulty in getting startup capital. He noted that banks are subject to a higher degree of regulation, and said capital is not flowing as it should be. With regard to the state taking on risk, Rep. Cronin pointed out that a similar program in the state of Utah, which uses general fund dollars, has been responsible for creating new businesses and growing existing ones. He said the legislation will not grow a larger bureaucracy, since it sets up an independent entity that covers its own costs. He asked that the committee introduce the RS so it can receive a full hearing.

**Rep. Henderson** spoke in support of the original motion, saying he would be more comfortable if this loan program was part of the total Department of Commerce program. He noted there is a new effort being made to achieve continuity among all incentive programs, which until now have had no coherence. He said the lack of coherence causes confusion even among the people who need to borrow money. He suggested **Rep. Rusche** should further share this legislation with the Department of Commerce and return with a more elaborate, integrated proposal.

**Rep. Patrick** raised a concern about the \$35,000 loan limitation, stating that this amount may be too low to help most borrowers. He said he applauds the attempt to get the problem of lack of startup capital resolved, but he would prefer to use the current structure and fund it more adequately.

**VOTE ON SUBSTITUTE MOTION:**

**Chairman Black** called for a vote on the substitute motion to introduce **RS 21069C1**. **Substitute motion failed by a voice vote.**

**VOTE ON ORIGINAL MOTION:**

A roll call vote was requested on the original motion to return **RS 21069C1** to sponsor. **Motion carried by a vote of 13 AYE and 4 NAY. Voting in favor of the motion: Reps. Henderson, Collins, Bilbao, Chadderdon, Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, and Batt. Voting in opposition to the motion: Reps. Black, Smith, Rusche, and Cronin.**

**H 471:**

**Chairman Black** announced that the sponsor of **H 471** has requested this bill be moved to a later date for a hearing. Therefore, it will not be considered at this meeting.

**ADJOURN:**

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

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Representative Max C. Black  
Chairman

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MaryLou Molitor  
Secretary