

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 12, 2012

SUBJECT	DESCRIPTION	PRESENTER
	Rules Review	
	Division of Building Safety	Dep. Director Steve Keys
<u>07-0103-1101</u> Pg. 3-12	Rules of Electrical Licensing and Registration - General	
<u>07-0104-1101</u> Pg. 13-17	Rules Governing Electrical Specialty Licensing	
<u>07-0104-1102</u> Pg. 18-24	Rules Governing Electrical Specialty Licensing	
<u>07-0105-1101</u> Pg. 25-28	Rules Governing Examinations	
<u>07-0106-1101</u> Pg. 29-34	Rules Governing the Use of National Electrical Code	
<u>07-0205-1102</u> Pg. 35-37	Rules Governing Plumbing Safety Licensing	
<u>07-0205-1103</u> Pg. 38-47	Rules Governing Plumbing Safety Licensing	
<u>07-0207-1101</u> Pg. 48-51	Rules Governing Civil Penalties	
<u>07-0402-1101</u> Pg. 52-56	Safety Rules for Elevators, Escalators, and Moving Walks	
<u>07-0701-1101</u> Pg. 57-60	Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems	
<u>07-0701-1102</u> Pg. 61-64	Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems	
	Pending Fee Rules	
<u>07-0107-1101</u> Pg. 2-8	Rules Governing Continuing Education Requirements	
<u>07-0205-1101</u> Pg. 9-20	Rules Governing Plumbing Safety Licensing	
<u>07-0501-1101</u> Pg. 21-24	Rules of the Public Works Contractors License Board	

Human Rights Commission

[45-0101-1102](#)
Pg. 168-182

Rules of the Idaho Human Rights Commission

Dep. Jeanne
Goodenough

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 12, 2012
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

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

Chairman Andreason recognized **Steve Keys, Deputy Administrator, Division of Building Safety**, to present Pending Rule Dockets 07-0103-1101, 07-0104-1101, 07-0104-1102, 07-0105-1101, 07-0106-1101, 07-0205-1102, 07-0205-1103, 07-0207-1101, 07-0402-1101, 07-0701-1101, and 07-0701-1102. Present Pending Fee Rule Dockets 07-0107-1101, 07-0205-1101, and 07-0501-1101.

Steve Keys, Deputy Director, advised that for clarification he would like to make a few general comments: first and foremost, the content of all of the proposed rules has been developed utilizing open meetings with significant involvement by parties and entities affected by the changes reflected in these proposals. Second, as a general statement, you will notice housekeeping changes including address references and changes to eliminate references to specific bureaus within the Division. **Mr. Keys** said he did not intend to highlight those changes, but will be happy to address any questions the committee may have regarding those changes. Finally, all of the dockets under review here today, with one significant exception, are widely supported by affected parties, and that in all but one case he believes they have satisfied the expectation for building a consensus prior to bringing the docket forward. He will explain the exception when they reach that point in the agenda.

DOCKET NO. Department of Building Safety, Pending Rules

07-0103-1101 Rules of Electrical Licensing and Registration - General

Mr. Keys said this docket was promulgated by the Electrical Board to address a situation where some apprentices consciously decide to avoid attending school by taking advantage of a provision allowing renewal of a five year apprenticeship registration by enrolling in an apprenticeship education program, and then withdrawing. Apprentices currently are required to complete four years of schooling and 8000 hours of on-the-job experience in order to qualify for licensure. It is the consensus of the board and industry that an apprentice should be able to complete the required training within the term of the base five year registration and the additional five year registration that are provided for in this rule. There are provisions for exceptions to address exceptional circumstances at the discretion of the board.

Senator Tippetts requested clarification on page 7, of the rule, concerning "whether extenuating circumstances exist which prevent the completion of the instruction or work experience requirements; for renewal of an apprentice

registration." In the upper text of the paragraph the rule states that renewal would only occur if evidence demonstrated that the apprentice had successfully completed at least two years sequential instruction. The paragraph creates confusion in the rule. **Mr. Keys** responded that the intent of the rule during the five year registration period is that the apprentice would accumulate two years of schooling and 4,000 hours of work experience in order to facilitate an automatic renewal for a second five year term. If necessary, the Division could allow rule drafting encompassing what the department intends. The intent is that when an apprentice cannot meet the provisions of the five year registration period in the instance of such an event as a catastrophic illness or being deployed with the military, the Division wanted to allow the Board to have the discretion to review that apprentice's circumstances and grant an exemption. **Senator Tippetts** asked if an apprentice has not completed the two years of instruction and the 4,000 hours of work in the five year period can that apprentice apply for an extension? **Mr. Keys** replied that apprentice can apply for an extension. **Senator Tippetts** asked if the apprentice is required during the second five year period to complete the additional hours of work and instruction? **Mr. Keys** replied that the expectation for the apprentice is that in order to qualify themselves for an automatic renewal for a second five year apprenticeship term they will have completed the first two years of schooling and have accumulated 4,000 hours of on the job experience.

MOTION: **Senator Cameron** moved, seconded by **Senator Smyser**, to adopt Docket No. 07-0103-1101. The motion carried by **Voice Vote**.

07-0104-1101 Rules Governing Electrical Specialty Licensing

Mr. Keys stated this docket is similar to the previous docket in that it pertains to registration requirements for specialty trainees. Specialty trainees are registered for three three year terms. These trainees are required to accumulate 4000 hours of on-the-job (OJT) experience in order to qualify for licensure. Under this proposed rule, a trainee is allowed two three year registration terms to complete his 4000 hours of OJT. Provisions are also in place for the board to grant additional time in extenuating circumstances.

MOTION: **Senator Smyser** moved, seconded by **Senator Cameron**, to adopt Docket No. 07-0104-1101. The motion carried by **Voice Vote**.

07-0104-1102 Rules Governing Electrical Specialty Licensing

Mr. Keys said this docket establishes a new specialty electrical license category for solar photovoltaic practitioners. Photovoltaic systems are becoming more and more commonplace in Idaho, and contribute significantly to our power supply. The specialty license recognizes the experience and expertise that exists in the industry, and provides the legal bases for industry participants to continue in business within the licensing requirements for electrical installations. The Division has worked with the industry for the past three years to craft a workable solution to the licensing issue, and together they believe this proposed rule satisfies that goal.

MOTION: **Senator Cameron** moved, seconded by **Senator Smyser**, to adopt Docket No. 07-0104-1102. The motion carried by **Voice Vote**.

07-0105-1101 Rules Governing Examinations

Mr. Keys advised that the original rule imposed a 30 day waiting period after a failed journeyman exam before an applicant could re-test. This proposed rule removes that restriction, recognizing that the tests are now offered on a continuous basis. The board believes it is the individual responsibility of the applicant to decide for himself whether he should do additional remedial work before re-testing. The one year waiting period to retest after a third failed attempt remains in place.

MOTION: **Senator Tippetts** moved, seconded by **Senator Stennett**, to adopt Docket No. 07-0105-1101. The motion carried by **Voice Vote**.

07-0106-1101

Rules Governing the Use of National Electrical Code

Mr. Keys stated this docket is the exception to the rule that he referenced in his opening remarks, and it is a bit awkward for all involved. This docket references the adoption of the 2011 National Electrical Code by the Idaho Electrical Board. It also reflects the statutory division of authority between the administrator of the Division of Building Safety (DBS) and the Electrical Board. The board is given rulemaking authority, and exercising that authority, even though the agency administration and many affected parties would have rather seen the board take a different approach. Significantly, the board has decided to modify the existing amendments to the code by removing the limitation on the requirement for Arc Fault Circuit Interrupters (AFCI) throughout a residence. The board had previously in its adoption of the 2008 National Electrical Code restricted the requirement for AFCI to bedrooms. This proposed rule would require the installation of AFCI on all circuits supplying outlets throughout the dwelling unit. The approval of this proposed rule has been estimated to add \$500 to the cost of the average new home.

Mr. Bob Scott, the chairman of the electrical board is here to represent the board's position and to answer questions if the committee so desires. **Senator Tippetts** asked which addition of the Electrical Code were the Arc Fault Interrupters first included? **Mr. Keys** answered they were included in the 2005 addition of the Electrical Code and then the code extended the requirement to the entire residence in the 2008 addition. **Senator Stennett** asked given each circuit in a residence, what would be the cost? **Mr. Keys** stated the cost difference in a normal circuit breakers cost, \$5.00 a piece and Arc Fault Circuit Interrupters cost \$35.00 to \$40.00 a piece. **Senator Stennett** advised that given that the construction industry is making slow progress coming out of the recession this cost increase would be prohibitive for those who are building and purchasing homes.

Bob Scott, Chairman of the State Electrical Board and General Manager of Quality Electric stated that when the Board looked at the addition of these AFCI they were very sensitive to adding this cost to the construction of a new home, especially in this climate. But they looked at all of the research that the National Fire Protection Association had put into this prior to them including it in 2008 code and felt it was warranted to be included in new home construction. The purpose of an AFCI is to trip the circuit when there is an arc fault. This happens when a wire becomes separated and is arcing from one wire to the other. This action will not trip a normal circuit breaker because it doesn't increase the amount of current that is flowing. It will generate the heat to start a fire. There are thousands of fires started every year from fires that are started from arc faults. Most of the fires are happening in older buildings, which this rule change will not affect. By placing the AFCI in new homes the buyer will be getting a safer home. As newer construction with these devices installed there will be a decrease of these fires in this country contributed by arc faults. The Electrical Board did not want to overrule the amount of research that the National Fire Protection Association had collected in this field. The Board felt that the extra safety in housing that this change would afford will be good for Idaho. These AFCI will increase the cost of a new home by approximately \$500.00.

Senator Tippetts asked is there any data that would support the number of fires being prevented and lives saved from installing these AFCI? **Mr. Scott** replied that there are thousands of fires caused every year and hundreds of lives lost because of arc fault interruptions. The majority of the fires due to the arc fault interruptions are caused in older dwellings. It is the Board's opinion that as more of these AFCI are installed in newer dwellings and older dwellings are phased out it will begin to save lives.

Senator Tippetts requested evidence that would support the Board's contention that thousands of fires and hundreds of lives are lost due to arc faulting. **Mr. Scott** replied that evidence was supplied to the Board by insurers and manufacturers over the course of the last year as they proceeded with hearings on this rule.

Senator Goedde asked if **Mr. Scott** could tell him how many arc fault fires have occurred during daylight hours as opposed to nighttime when individuals would be asleep. **Mr. Scott** stated he did not have that data available.

Senator Stennett asked are their statistics on what amount of electrical fires that are caused by this electrical arcing. **Mr. Scott** answered that he did not know what percentage of fires were from arcing, but the majority of the electrical fires that are started in this country are from arc faults. **Senator Stennett** asked will these AFCI only be installed in bedrooms? **Mr. Scott** replied that is correct. **Senator Stennett** asked had they quantitatively noticed a drop in casualties from electrical fires because of using these interrupters. **Mr. Scott** stated these AFCI have only been used since 2008 so they have not noticed any significant difference.

Senator Heider, Tom Brown, B&B Electric, and Allen Lusk, Boise Basin Electric, all spoke against this rule which would add a potential \$500 per home increase to construction costs in this economic downturn. All voiced that they were not in favor of adopting the 2011 Electric Code; which have additional cost increases in the code that put a burden on the struggling construction industry.

MOTION:

Senator Smyser moved, seconded by **Senator Stennett**, to hold Docket No. 07-0106-1101 in Committee. The motion carried by **Voice Vote**.

07-0205-1102

Rules Governing Plumbing Safety Licensing

Mr. Keys said this docket from the Plumbing Board is promulgated as a result of numerous complaints regarding out-of-state plumbers taking advantage of a loophole in existing regulations to work in Idaho without obtaining a license. This proposal requires all plumbers who have been licensed as journeymen or master plumbers in other jurisdictions to disclose that information to DBS. They would then be required to apply for licensure at the journeyman level, and not be allowed to register as an apprentice, as they have already served and completed that training requirement.

Senator Tippetts asked what the procedure would be for acquiring this licensure.

Mr. Keys replied the journeymen or master plumbers must supply proof of their experience to DBS or prove that they have a license in another jurisdiction. Then they are allowed to register for journeyman plumber exam and on successful completion of the exam they would be granted a license in our state. **Senator Goedde** stated is the issue the retesting to acquire a license in our state.

Mr. Keys explained these out-of-state plumbers would register with DBS as apprentices and for the short duration of the job they would never go to school or fulfill any requirements of an apprentice. When the job was far enough along they would leave the state; they wanted to avoid taking the test.

MOTION:

Senator Cameron moved, seconded by **Senator Tippetts**, to adopt Docket No. 07-0205-1102. The motion carried by **Voice Vote**.

07-0205-1103

Rules Governing Plumbing Safety Licensing

Steve Keys, Deputy Director, advised this rule proposal allows a plumbing apprentice to take the journeyman test after they have completed their schooling but have not gathered all their on the job experience. They will not be granted a license until they have the required hours of on the job experience.

MOTION:

Senator Tippetts moved, seconded by **Senator Johnson**, to adopt Docket No. 07-0205-1103. The motion carried by **Voice Vote**.

07-0207-1101

Rules Governing Civil Penalties

Mr. Keys stated this docket builds on the previous docket to allow for the imposition of civil penalties in those cases where an applicant has failed to disclose previous licensure as a journeyman or master plumber when they apply for registration as an apprentice.

Senator Tippetts asked for clarification on the intent of this rule. Does this rule only apply to those cases where an individual is attempting not to disclose that they have been previously licensed? **Mr. Keys** replied that this is the intent of this rule.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to adopt Docket No. 07-0207-1101. The motion carried by **Voice Vote**.

07-0402-1101

Safety Rules for Elevators, Escalators, and Moving Walks

Mr. Keys said this rule proposal adopts the 2010 version of ANSI/AMSE A17.1, the elevator code. The 2010 code addresses new developments and technologies in the industry and codifies the approval process for them. The industry and DBS support this proposal as it simplifies the approval of new technologies. Currently, elevator components not falling within the current 2007 version must be approved through an alternative approval process which is cumbersome and costly for all involved. The rule also adopts updated versions of the standard for elevator suspension and governor systems, and the performance-based safety code for elevators and escalators. Both of these codes provide a backdrop for addressing new technologies that have been and continue to be developed. DBS is seeing tremendous new developments in technology within the elevator industry.

MOTION:

Senator Schmidt moved, seconded by **Senator Stennett**, to adopt Docket No. 07-0402-1101. The motion carried by **Voice Vote**.

07-0701-1101

Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

Mr. Keys advised this docket clarifies the requirement for compliance bonds required from an applicant in order to obtain an HVAC contractor license. It also requires that a Notice of Correction must be issued to identify deficiencies uncovered as a result of an inspection. Minor changes eliminate specific colors of inspection tags.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to adopt Docket No. 07-0701-1101. The motion carried by **Voice Vote**.

07-0701-1102

Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

Mr. Keys said this proposed rule removes requirements for the protection of meters and regulating equipment owned by the utility or fuel provider. The owners of this equipment already have requirements for the protection of these devices. Those requirements are generally more rigorous and specific than the language in the current rule.

MOTION:

Senator Tippetts moved, seconded by **Senator Smyser**, to adopt Docket No. 07-0701-1102. The motion carried by **Voice Vote**.

Department of Building Safety, Pending Fee Rules

07-0107-1101

Rules Governing Continuing Education Requirements

Mr. Keys stated this docket imposes fees on the providers of continuing education courses that are offered to fulfill licensure requirements for electricians.

The proposed fee is designed to cover the costs that DBS incurs in reviewing the qualifications of instructors and the content of the course. The \$50 fee for instructors and \$50 fee for each proffered course have been discussed with and are endorsed by the PTE schools in Idaho and by many organizations offering CEU courses. Absent a fee for approval, the agency has been overwhelmed with applications for classes offered throughout the country, many of which are never offered in Idaho. We believe that this proposal will help address that situation.

MOTION:

Senator Schmidt moved, seconded by **Senator Stennett**, to adopt Docket No. 07-0107-1101. The motion carried by **Voice Vote**.

07-0205-1101

Rules Governing Plumbing Safety Licensing

Mr. Keys said this docket from the Plumbing Board imposes a continuing education requirement on journeyman plumbers and plumbing contractors in Idaho. The requirements are eight hours for journeyman and sixteen hours for contractors every three-year licensing cycle. The administrative requirements are in line with those currently in place for electrical licensees, and the fees for approval of courses and instructors mimic those contained in the previous docket.

MOTION:

Senator Schmidt moved, seconded by **Vice Chairman McKague**, to adopt Docket No. 07-0205-1101. The motion carried by **Voice Vote**.

07-0501-1101

Rules of the Public Works Contractors License Board

Mr. Keys advised this proposal would impose a fee to be submitted with a request for an extension of time in which to renew a Public Works Contractor license. The fee would be the pro-rated portion of the annual license fee, with a minimum fee of \$50. The most common reason for an extension is the unavailability of the updated financial information, and many contractors file an extension request on a recurring basis, as the underlying renewal date is unaffected by the extension request. This proposal allows a contractor to request an extension, pay a pro-rated fee for the time covered by the extension, and change their annual renewal date all in one process. We hope this will negate the need for many annual requests for extensions.

This docket also installs a \$100 fee for expedited processing of a license application. By instituting a separate charge for this expedited service, they believe they can offer improved service without adversely affecting those applicants whose applications are already in process. DBS proposes to do this by utilizing the \$100 to pay for overtime that would be incurred by existing staff in reviewing these expedited requests outside of their normal working hours.

Senator Tippetts asked how long does the normal process of approval take and how will the process change if an applicant pays the extra \$100. **Mr. Keys** answered that normally the Division's turnaround time is within ten working days. Under this rule the Division has the ability to expedite a license request within a 24-48 hour period.

MOTION:

Senator Schmidt moved, seconded by **Senator Johnson**, to adopt Docket No. 07-0501-1101. The motion carried by **Voice Vote**.

DOCKET NO.

Human Rights Commission

45-0101-1102

Rules of the Idaho Human Rights Commission

Deputy Jeanne Goodenough stated the primary reason for this rule update was to bring the state's rules into compliance with the Americans With Disabilities Act which was amended effective January 1, 2009. Federal regulations were issued May 25, 2011 and the Commissions rules needed to be amended to conform to those regulations. While the definition of who is an individual with a disability has changed, the interpretation of that phrase in the regulations was broadened considerably to cover more individuals.

Rather than try to catch the nuances of all these regulations, the Commission is proposing to refer to the fact that state law on issues of discrimination is interpreted consistent with federal law and case law. Figures requested in rule 12 and 101 on page 174 cover Title VII of the Civil Rights Act, the Age Discrimination Employment Act, and the Americans with Disabilities Act. Other changes to the rule included changes in the word person to individual, the word shall to will or must for clarity. The Commission proposes eliminating unnecessary definitions for those which copy federal regulations. The rule describing the Commission's processes, rule 300, was clarified and updated to reflect current practice.

MOTION:

Vice Chairman McKague moved, seconded by **Senator Stennett**, to adopt Docket No. 45-0101-1102. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 3:05 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 17, 2012

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20797</u>	Relating to Real Estate Term Language Update	Jeanne Jackson-Heim, Executive Director
<u>RS20798</u>	Relating to Real Estate License Exam Fee	Jeanne Jackson-Heim, Executive Director
<u>RS20799</u>	Relating to Real Estate License Exam Fee Cap	Jeanne Jackson-Heim, Executive Director
<u>RS20800</u>	Relating to Real Estate Related Continuing Education Credit	Jeanne Jackson-Heim, Executive Director
Docket No.	Department of Administration Rules Review	
<u>38-0301-1101</u> Pg. 160-167	Rules Governing Group Insurance	Director Luna
Docket No.	Department of Labor Rules Review	
<u>09-0130-1101</u> Pg. 65-69	Unemployment Insurance Benefits Administration Rules	Bob Fick Communication Manager
<u>09-0135-1101</u> Pg. 70-73	Unemployment Insurance Tax Administration Rules	
Docket No.	Division of Building Safety Rules Review	
<u>07-0106-1101</u> Pg. 29-34	Rules Governing the Use of National Electrical Code	

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 17, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:33 p.m.

RS20797 Relating to Real Estate Term Language Update
Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission, stated the proposed bill **RS20797** is a clean-up bill, which deletes a few words that were missed in previous law changes.

MOTION: **Senator Goedde** moved, seconded by **Senator Tippets**, to print **RS20797**. The motion carried by **Voice Vote**.

RS20798 Relating to Real Estate License Exam Fee
Ms. Jackson-Heim said this proposed legislation concerns the Commission's contracts with a professional exam provider to administer the real estate licensing exam. There is a statutory cap of \$100 for the exam fee. This proposed legislation would increase that cap to \$150. The Commission's present exam fee is \$85, and as noted, our existing contract expires in November of this year.

MOTION: **Senator Tippets** moved, seconded by **Senator Goedde**, to print **RS20798**. The motion carried by **Voice Vote**.

RS20799 Relating to Real Estate License Exam Fee Cap
Ms. Jackson-Heim advised that **RS20799** pertains to the Commission's group errors and omissions insurance policy. As with the license exam, there is presently a premium cap of \$200. The Commission is in the last year of a three-year contract with their group insurance provider, and the premium has been \$186 per year.

MOTION: **Senator Tippets** moved, seconded by **Senator Johnson**, to print **RS20799**. The motion carried by **Voice Vote**.

RS20800 Relating to Real Estate Related Continuing Education Credit
Ms. Jackson-Heim stated **RS20800** pertains to continuing education requirements for our licensees. Idaho Code permits some courses taken in other jurisdictions or for other professions to be used to meet Idaho's education requirement. This legislation would add language to clarify those non-certified courses must be somewhat equivalent to Idaho certified courses by meeting the same minimum requirements as a course certified by the Commission.

MOTION: **Senator Smyser** moved, seconded by **Senator Cameron**, to print **RS20800**. The motion carried by **Voice Vote**.

**DOCKET NO. Department of Administration
Rules Review**

38-0301-1101 Rules Governing Group Insurance

Teresa Luna, Director, Department of Administration advised that this docket includes some needed housekeeping changes for clarification and consistency but there are a couple of indicative changes. The definition of eligible dependents for active and retired employees has been changed. Prior to the Patient Protection and Affordable Care Act only dependent children up to the age of 25 were eligible for medical and dental coverage through the state's plan. Due to the Act and its changes the state is now required to expand coverage to all children up to the age of 26 regardless of their marital status. The final change is in Section 40 the Medicare Prescription Medication Reimbursement Program established three years ago when access to the state medical plan for retiree's, medicare eligible, were removed from the state's plan and had to seek coverage from a private plan. At that time, there was concern from those retiree's about prescription drug care costs and some retiree's falling into the donut hole. The state implemented the Medicare Prescription Medication Reimbursement Program, which was put in place for two years to allow the retiree's moved off of the state's plan the ability to apply for reimbursement for up to \$2,000 to defray their costs. The Department set aside \$400,000 per year to cover the reimbursement of these costs. To date, there has been limited usage of these funds less than \$100,000 of the \$800,000. The Department has chosen to extend this Program for another two years, through calendar year 2013.

Senator Tippetts stated that the language on page 165, Section (a) covering prescription drug costs that were covered during the coverage year and maybe reimbursed up to the March of the following year, "reads received after March 31, of the covered year will be denied for being untimely". This should read "of the following year". **Ms. Luna** stated that the Medicare Prescription Drug Plan runs on a calendar year. Whatever costs are incurred during 2010, for example, the retiree could ask for reimbursement of those costs until March of 2011.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to reject the sentence on page 165, Section 02 (a) that starts with "petitions and reimbursements....and ends with being untimely". The motion carried by **Voice Vote**.

MOTION:

Senator Goedde moved, seconded by **Senator Smyser**, to adopt Docket No. 38-0301-1101 with the one deletion. The motion carried by **Voice Vote**.

**DOCKET NO. Department of Labor
Rules Review**

09-0130-1101 Unemployment Insurance Benefits Administration Rules

Bob Fick, Communication Manager, Department of Labor, stated this rule will bring the regulations of the Department in line with **H80** which set new restrictions on the ability of corporate officers to collect unemployment insurance, opting out of coverage and then applying for insurance. This rule defines a corporate officer and the circumstance under which a corporate officer can receive unemployment insurance. Essentially there are no circumstances. A corporate officer that has a controlling monetary interest in the business cannot receive unemployment insurance. If the corporate officer is fired or sells the business and is no longer a corporate officer these circumstances would allow him to be eligible for unemployment insurance. As long as a corporate officer has controlling interest in the business they are ineligible to collect unemployment benefits.

Mr. Fick recalled to the Committee the circumstances under which **H80** was passed. The last quarter of 2007 to the first quarter of 2010, during the recession, the state had 5,030 corporate officers who collected \$42 million in unemployment insurance

with only \$6 million in wages contributed to the fund. This disproportionate demand on the unemployment insurance trust fund essentially shifted the burden of that additional \$36 million in payments to the other 50,000 employers in Idaho who were paying taxes. The unemployment insurance program was never intended to be part of a business plan and serve as a financial bridge in cases that are seasonal, repeated or expected for business circumstances. The fund's intention was to pay out benefits in unexpected cases where people lose their jobs for no fault of their own. In the case of corporate officers they control the business of employment, payment and hiring and firing of personnel. The fund is better served by imposing greater restrictions on collection of unemployment by corporate officers.

MOTION: **Senator Cameron** moved, seconded by **Senator Goedde**, to adopt Docket No. 09-0130-1101. The motion carried by **Voice Vote**.

09-0135-1101 Unemployment Insurance Tax Administration Rules

Mr. Fick explained that Docket No. 09-0135-1101 is the second part of **H80** rules reconciliation. It sets out procedure to which corporate officers can opt out of the unemployment insurance system. The decision they make is for a two year period and at the end of that two year period they can make the choice whether to continue to opt out or decide to enroll in the system.

MOTION: **Senator Goedde** moved, seconded by **Senator Schmidt**, to adopt Docket No. 09-0135-1101. The motion carried by **Voice Vote**.

**DOCKET NO. Department of Building Safety
Rules Review**

07-0106-1101 Rules Governing the Use of National Electrical Code

Chairman Andreason stated at the January 12, 2012 Committee meeting the Committee voted to hold this rule in Committee. **Senator Goedde** said when the rule originally was before the Committee he asked whether the presenter had statistics on the number of homeowners that might not be able to afford a home if this rule is adopted. The presenter did not have that information. Since that meeting, the Treasure Valley Home Builders provided a number based on 2008 statistics. An extra \$1,000 charge for a home would cause 582 less homes to be purchased in the Treasure Valley. This is an indication of what an additional charge on a purchase price can create.

MOTION: **Senator Smyser** moved, seconded by **Senator Stennett**, to reject 07-0106-1101. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:07 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 19, 2012

SUBJECT	DESCRIPTION	PRESENTER
	Presentation from the Division of Human Resources	Vicki Tokita, Administrator
	Presentation from the Idaho Business Council	Jared Bauer, Executive Director

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

Carol Deis
Room: WW46
Phone: (208) 332-1333
email: cdeis@senate.idaho.gov

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 19, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

ABSENT/ EXCUSED: Senator Cameron.

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

Chairman Andreason called the meeting to order at 1:31 p.m.

MOTION: **Senator Tippetts** moved, seconded by **Senator Johnson**, to approve the minutes of January 12, 2012. The motion carried by **Voice Vote**.

Presentation from the Division of Human Resources, Vicki Tokita, Administrator, Division of Human Resources stated the presentation encompasses the accomplishments of the Division for the last year and the projects they are currently working on. The divisions they will be covering in this presentation are: Status of employee compensation, salary survey and retention, employee compensation and benefits and finally I-PEFORM–statewide Performance Management System. **Ms. Tokita** advised in this section of her presentation are the current workforce statistics. The historical comparison of change in employee compensation. The last appropriation made was FY2009. The last slide is the comparison of the appropriated Change in Employment Compensation (CEC) to the market. Since 2009, the economy has stabilized so that the market rates did not increase. As the economy slowly improves the employee's salaries are falling further behind.

While preparing the CEC Report for FY2013, the Division identified gaps in statewide data relevant to employee retention and turnover. The Division has developed exit interview questions to gather information from employees that are voluntarily leaving state service that will be used by all statewide agencies. Agencies code the reasons for the separation of employees from state service. These codes did not provide enough information concerning where the employees were going so they updated these codes to broaden the data collected. (See Attachment 1, tabs 1 through 4, for additional disclosure of this testimony.)

Brandon Wolfe, Deputy Chief, State Comptrollers Office, advised that their office has developed a new Performance Management System in partnership with the I-Time System named I-Perform. The I-Perform System is designed for management to quickly build their organizational structure of their agency. (See Attachment 1, tab 5, for additional disclosure of this system.)

Sharon Duncan, Project Manager, presented a slide overview of the I-Perform System. This system has been designed for managers and supervisors to use when they are creating an evaluation for an employee. It also allows the employee to access the evaluation. There are five areas in the I-Perform, Performance evaluation: Performance review, administrative functions, performance data, and my evaluation. There are four statewide performance expectations for employees: Professionalism, promoting responsible state government, customer

focus, leadership for supervisors and managers. There are five areas to the evaluation: The performance cover sheet, performance objective, performance expectations, performance summary, audit and attachments. The evaluation is routed electronically through the supervisor and to the reviewer.

As soon as it is complete there will be an electronic signature that will show up on the evaluation. There is a supervisors form with comments where they can document appropriately and share the information with their employee. Sample of questions are: what was the event, where did it occur, who was present, what was the outcome, what was a potential outcome, how does it impact the agencies value or services. A sample of performance objectives the supervisor would document would be the key job responsibilities of an employee, review of the prior year objectives, and prior year employee development plan. The system documents how well the employee succeeded or what objectives still need to be completed. Whether they need retraining or educational opportunities to reach the objectives. Performance expectations include the four statewide standards. Under these standards is a description of what it means to be exemplary, solid, or achieved. Documentation area would be where letters would be attached that might have complimented the employee for their service or work performed. Performance summary which contains the overall summary of the employee's performance is documented and outlined with the objectives for next year. When a reviewer needs to access an item they would click on performance review and this will show the reviewer what evaluations are sitting in the queue for review, comment on, and sent back to the supervisor. The performance data will display history of all of the evaluations on the employee. The last area is my evaluation tab, this would be where the employee could see their completed evaluation.

Human Resource Division is in the process of developing training for the I-PERFORM System and will start with the Human Resource staff and then piloting the system with a couple of smaller agencies to get them up and running. The majority of the larger agencies will be transitioning to the system. **Senator Johnson** asked what kind of training the Division gives the supervisor's to facilitate an effective performance evaluation? **Ms. Duncan** replied that the Division is in the process of revising their supervisor training program to enhance the philosophy of performance management training.

Kim Toryanski, Deputy Administrator, stated in the process of revising their supervisor training program one of the areas that is a priority is risk management. Two of the highest risks at agencies are personnel actions in the hiring and termination process. The Human Resource Professionals at the agencies are in charge of carrying out the human resource rules and complying within their agencies to carry out state and federal performance laws. In the spring the Human Resource Professionals received training on "Retaliation in the Workforce" and also collaborate with the Human Rights Commission in the process of that training. They have purchased CD's that the Division loans out to the agencies for additional training in personnel issues and employment law.

Presentation from the Idaho Business Council

Jared Bauer, Executive Director, Idaho Business Council advised that they have developed a business concept that creates a partnership between the State Legislature, the three universities, as well as business and community leaders statewide and is called the Idaho Business Council. It is dedicated to researching economic and business issues in the state. Their goal is to research issues that will help the state grow in certain areas. It will help the state grow economically, raise median income, and bring quality jobs to Idaho.

The Council is different than some of the other organizations as they are research oriented. They are not industry specific; representing all industries within the state.

The Council requires the help of the members of the legislature in order for them to operate. Their goal is to offer to the business community statewide approach to business and economic research. They are not a lobbying organization. Their goal is through a partnership to be a tool to the legislature to offer new research each year regarding issues that their constituents are facing in the business arena.

Idaho faces a great deal of issues such as lowering median income, high unemployment and a decreased corporate presence. Two of these are items that Idaho shares with nearly every state in the union, which are decreased corporate presence as well as high unemployment. Three of Idaho's bordering states have increased their median income year after year, even during the recession, (Utah, Washington and Oregon). Idaho's median income has continued to drop. What can Idaho do to increase jobs and develop innovative sustainable economic growth? The Council's mission is to increase jobs and develop innovative, sustainable economic growth. The Idaho Business Council provides a neutral, comprehensive, statewide forum to facilitate business and legislative professionals to identify specific issues, and leverage university research to propose consensus based solutions.

Jenni Herberg, CEO, Idaho Business Council, stated that every year the Council will ask the legislators to become a part of the voting membership. Each legislator will select business or community leaders from your district to become a member of this voting council. Three topics will be selected each year from this membership to be turned over to the universities to research these topics. As the research projects come back, the Idaho Business Council will prepare a condensed version of the research and action that the state can pursue. A commitment letter for research hours from graduate students and faculty will be e-mailed to the Commerce Committee on January 19 from all three deans at the business colleges of Boise State, Idaho State and the University of Idaho.

The members of their Executive Board of Directors are Brian O'Morrow, Brown's Industries, President; Salmon Rapids Lodge; James Jacobson, Idaho Business Law Group; Shawn Walters, past Chairman for the Idaho Potato Commission; Cindy Lee, Owner of Heart N Home Hospice; Karin Hart, Vice President of Simplot Food Groups; Steve Dominguez, Steve's Hometown Motors Toyota; Jeff Hamilton, Five 11 Main Restaurant; CPA Firm; Jim Frank, President Litehouse Salad Dressings; James Sabala, CFO Hecla Mining; Richard Crowley, Small Business Owner; and Bruce Eastman, COO Inovus Solar.

The Council is asking for two items: 1) The commitment of the legislators to be a part of the voting membership and 2) That the legislators will pick two members from their district that represent business and community leadership. (See Attachment 2, tabs 1 through 4, for additional disclosure of this testimony.)

Senator Goedde stated that he thought their approach is a great idea. He suggested that they might solicit the presidents of the universities for their signatures, which would be more powerful than the dean's of the business schools.

There being no further business, the meeting adjourned at 2:28 P.M.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 24, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT To Be Heard	Appointment of John Michael Brassey to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017	
GUBERNATORIAL APPOINTMENT To Be Heard	Appointment of Peter J. Black to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017	
Docket No.	Idaho Department of Finance Rules Review	
<u>12-0110-1101</u> Pg. 95-98	Rules Pursuant to the Idaho Residential Mortgage Practices Act	Michael Larsen, Consumer Finance Bureau Chief
Docket No.	Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors Rules Reivew	
<u>10-0101-1101</u> Pg. 74-84	Rules of Procedure	Dave Curtis P.E., Executive Director
<u>10-0102-1101</u> Pg. 85-88	Rules of Professional Responsibility	
<u>10-0104-1101</u> Pg. 89-94	Rules of Continuing Professional Development	

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

Carol Deis
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 24, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:32 p.m.

GUBERNATORIAL APPOINTMENT TO BE HEARD Appointment of **John Michael Brassey** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017. **Mr. Brassey** stated that this is his third reappointment as the Chairman of the Idaho Personnel Commission. This is a five member Commission that hears appeals on certain personnel issues for state employees. The Commission receives on average 25 appeals every year, of which, three or four of those appeals make their way to the Commission. The Commission convenes only when they have cases to render a decision. **Mr. Brassey** stated he is an attorney and graduated from the University of Idaho. He has served the State as Deputy Attorney General, Deputy Director of the Department of Finance, Head of the Attorney General Business Regulations Commission, Director of the Department of Insurance, and Administrator, Financial Management. **Senator Smyser** asked what **Mr. Brassey's** most important quality that he contributes to the Commission? **Mr. Brassey** replied that he is the only lawyer on the Commission. The Chairman of the Commission deals with all of the procedural issues with the courts and their deadlines. His familiarity with court procedures has made it far more expedient for the Commission's cases. When he was initially appointed the chairman an average appeal hearing would be one year out; now from the time the appeal is issued the turnaround is 30 days. **Senator Schmidt** asked **Mr. Brassey** to give an example of the type of cases that come to their commission. **Mr. Brassey** described an example of a terminated employee's appeal process and how it would flow through the Commission.

GUBERNATORIAL APPOINTMENT TO BE HEARD Appointment of **Peter J. Black** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017. **Mr. Black** stated that this is his second reappointment to the Idaho Personnel Commission. **Mr. Black** is a retired educator and has served on the Idaho Commission for Libraries, Idaho House of Representatives Assistant Minority Leader, and is Chairman of the Pocatello Park's and Recreation Advisory Council. **Senator Smyser** asked **Mr. Black** how is the Commission functioning? **Mr. Black** stated that **Mr. Brassey** runs a very good Commission with professionalism and procedural accuracy. **Senator Tippets** added that he was pleased with the quality of individuals that are serving on this Commission.

**Idaho Department of Finance
Rules Review**

DOCKET NO.

12-0110-1101

Rules Pursuant to the Idaho Residential Mortgage Practices Act, Michael Larsen, Consumer Finance Bureau Chief, Idaho Department of Finance, stated the amendments to these rules are primarily housekeeping. The amendments consist of some date changes, references to federal law and regulations, mainly, The Real Estate Procedures Act (RESPA), Truth in Lending Act and Regulation Z. Periodically the Department needs to update references in their rules, by specific date. The most recent date prefaced in the rules was January 1, 2009 and they amended it to January 1, 2011. In addition to those date changes, on page 98 of the rule, is a paragraph that is eliminated. The reason for the paragraph's elimination is that it stated that the use of the Nationwide Mortgage Licensing System was optional for mortgage licensee's. In 2008 congress passed a law called the Safe Act that requires the use of Nationwide Mortgage Licensing System for licensing applications and for license renewals. Idaho's Law, Mortgage Practices Act, reflects that requirement so this is to update the rules to be consistent with state law. The new number two paragraph on page 98, that ends "licensing through the MLSR," must use the MLSR to manage their licenses.

MOTION:

Senator Tippetts moved, seconded by **Senator Malloy**, to adopt Docket No. 12-0110-1101. The motion carried by **Voice Vote**.

**Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors
Rules Review**

DOCKET NO.

10-0101-1101

Rules of Procedure, Dave Curtis, P.E., Executive Director, Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, said there are four proposed changes to this rule. The first allows individuals to select retired status at any time upon request. That change is shown on page 76 of your 2012 Pending Rule Book. The second change on page 77 amends the examination application submittal deadlines to accommodate converting some examinations to computer-based format. The third change on page 78 eliminates the need for an engineer intern and land surveyor intern applicants to provide references on their examination application. That requirement was eliminated in statute by the Legislature last year, so this change in Administrative Rule is necessary to conform to the statute. The fourth and last amendment is to adopt national standards for the evaluation of nonaccredited engineering programs which changes are shown on pages 78 through 84. **Senator Tippetts** asked for explanation on the purpose of maintaining a list of individuals who are on retired status? **Mr. Curtis** replied the statute requires that the Board has a retired status and it is a research tool because they are not allowed to practice if they are on retired status. However, they can reactivate their active status upon the payment of renewal fees.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to adopt Docket No. 10-0101-1101. The motion carried by **Voice Vote**.

10-0102-1101

Rules of Professional Responsibility, Mr. Curtis advised there are four proposed changes to this rule all on page 88 of the Pending Rule Book. The first change is to provide for an exception to the rule requiring license holders to notify other license holders of the discovery of material discrepancy if the licensee is working in the employ of an attorney as an expert witness. The second change provides for a two-staged process of notification of discovery of material discrepancy, first informally, then in writing, and make notification to the Board optional rather than mandatory if the discoverer does not receive a response that answers the concerns of the discoverer. The third purpose is to reduce from 60 to 20 the number of days which a license holder has to respond to notification of discovery of a material discrepancy by another license holder. The fourth and last purpose of the amendments is to establish a limitation on the amount of time that can pass following discovery of an event for the Board to accept an affidavit of complaint. **Senator Goedde** asked about Subsection 04. on page 88. Obligations to Communicate, in the last sentence the Board changed "shall" to "may" what is the reason for this language change? **Mr. Curtis** responded notifications to the Board of discovery of what may or may not be a material error, discrepancy or omission an opportunity to decide for him or herself whether it is really an error or omission or if it is just a difference of opinion. There have been a number of cases where individuals have felt obligated because they didn't receive what they thought was a satisfactory explanation and have later decided that they were not sure that it was a material error, discrepancy or omission so much as a simple disagreement.

Senator Stennett asked for clarification, in paragraph 04., the discrepancy response time is be changed from 60 calendar days to two 20 calendar day periods? How does this procedurally help to change this timing? **Mr. Curtis** responded that 60 days is a long time for the public to have to wait for a survey where another surveyor discovers a discrepancy. A developer or citizen wants their survey recorded in a timely manner. For these individuals to have to wait two whole months for the dispute to be remedied seemed inordinately lengthy. The Board recommended a 20 day time frame for the initial verbal notification and a subsequent 20 days is to allow anyone to have 20 days in order to respond to a civil law suit. The Board deemed this sufficient time to respond to a law suit and also sufficient time for one professional to respond to another in the matter of these concerns. **Senator Johnson** asked how to you establish the first 20 day period if it is not in writing? **Mr. Curtis** replied often times the informal contact is not just a telephone call but an E-mail dealing with the issue.

MOTION:

Senator Smyser moved, seconded by **Senator Stennett**, to adopt Docket No. 10-0102-1101. The motion carried by **Voice Vote**.

10-0104-1101

Rules of Continuing Professional Development, Mr. Curtis stated the purposes of the amendments are numerous. The first is to clarify that routine job assignments are not considered qualified activities for continuing professional development purposes. That change is shown on page 92. The second change, on page 92, would allow newly licensed persons to carry forward professional development hours earned during the biennium prior to the first renewal following the issuance of the license. On page 93, you will find the third and fourth changes to the rule. The third purpose is to allow continuing professional development credit for authoring each chapter of a book. The fourth purpose, on page 94, will allow professional development hours for peer review of published technical or professional papers, articles or book chapters. The fifth purpose is to extend the same exemption from compliance to civilians deployed with the military as is extended to the military. The sixth and last purpose is to allow license holders who are residing outside the United States to earn the required professional development hours upon their return to the United States. **Senator Cameron**

requested clarification on licensees outside of the United States issue stated in your sixth rule change? **Mr. Curtis** explained they had an individual who was employed by a private contractor and deployed with the military. The Board thought there might be other individuals who find it difficult to meet the continuing professional development requirements when they are out of the country. **Senator Cameron** asked would it be the Board's intention that their license would still be active and be able to perform the duties of their license, they would just be exempt from the continuing education requirements? **Mr. Curtis** replied the Board's intent would be that their license would remain active and that the continuing education requirements would be waived while they were outside of the United States.

MOTION: **Vice Chairman Malloy** moved, seconded by **Senator Cameron**, to adopt Docket No. 10-0104-1101. The motion carried by **Voice Vote**.

MOTION: **Senator Schmidt** moved, seconded by **Senator Cameron**, to approve the minutes of January 17, 2012. The motion carried by **Voice Vote**.

MOTION: **Senator Johnson** moved, seconded by **Senator Cameron**, to approve the minutes of January 19, 2012. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:10 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 26, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT To Be Voted On	Appointment of John Michael Brassey to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017	
GUBERNATORIAL APPOINTMENT To Be Voted On	Appointment of Peter J. Black to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017	
<u>RS20925</u>	Relating to Insurance Deductibles	Lyn Darrington, representing State Farm Insurance
<u>S1225</u>	Relating to Idaho Real Estate License Exam Fee	Jeanne Jackson-Heim, Executive Director
<u>S1226</u>	Relating to Idaho Real Estate License Exam Fee Cap	Jeanne Jackson-Heim, Executive Director
<u>S1227</u>	Relating to Idaho Real Estate Related Continuing Education	MiChell Bird, Education Director
<u>S1228</u>	Relating to Real Estate Term Language Update	Jeanne Jackson-Heim, Executive Director
	Fraud Awareness Coalition	Bill Deal, Director, Department of Insurance
Docket No.	Department of Insurance Rules Review	
<u>18-0105-1101</u> Pg. 125-139	Health Carrier External Review	Tom Donovan, Deputy Director
<u>18-0146-1101</u> 140-146	Recognition of New Mortality Tables for Use in Determining the Minimum Standard of Valuation for Annuities and Pure Endowment Contracts	
<u>18-0150-1101</u> Pg. 147-150	Adoption of the International Fire Code	Mark Larson, State Fire Marshall

**Division of Human Resources and Personnel
Commission
Rules Review**

Docket No.

[15-0401-1101](#)

Pg. 99-103

Rules of the Division of Human Resources and
Idaho Personnel Commission

Michael Savoie, HR
Program Mgr.

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

Carol Deis
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 26, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

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

GUBERNATORIAL APPOINTMENT TO BE VOTED ON: Appointment of **John Michael Brassey** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017.

MOTION: **Senator Smyser** moved, seconded by **Vice Chairman Malloy**, to send the gubernatorial appointment of John Michael Brassey to the Idaho Personnel Commission to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

GUBERNATORIAL APPOINTMENT TO BE VOTED ON: Appointment of **Peter J. Black** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017.

MOTION: **Senator Tippetts** moved, seconded by **Senator Johnson**, to send the gubernatorial appointment of Peter J. Black to the Idaho Personnel Commission to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

RS20925 **Relating to Insurance Deductibles.** **Lyn Darrington**, representing **State Farm Insurance**, stated the bill before you will increase maximum auto insurance deductible for renewal policies. This section of code has not been amended since 1991. The auto insurers recommend to increase the comprehensive from \$150 to \$250 and collision and physical damage from \$300 to \$500. **Vice Chairman Malloy** asked how are these adjustments to these fees in line with other states deductible caps? **Mr. Darrington** stated she did not have that information with her but would be prepared to answer the question at the hearing on the legislation.

MOTION: **Senator Tippetts** moved, seconded by **Senator Johnson**, to print **RS20925**. The motion carried by **Voice Vote**.

S1225

Relating to Idaho Real Estates License Exam Fee. Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission, stated the first item for your consideration today is **S1225**. Applicants are required to pass a two-part licensing exam to obtain an Idaho Real Estate License. The Commission contracts with Pearson VUE, a professional exam provider, to administer these exams. The exam fee is capped at \$100 in Idaho Code, and this bill would increase the cap to \$150. Our present exam fee is \$85, and our existing contract with Pearson VUE expires in November of this year. The Commission would like to ensure that they are able to solicit enough competitive bids to provide a quality licensee exam. **Chairman Andreason** asked is this increase to cover increased expenses for the exam? **Ms. Jackson-Heim** replied that the Commission does not collect this fee, it is collected by the exam provider and it covers their costs of administering the exam. Exam providers administer testing throughout the United States for the convenience of the applicants who wish to take the test. The Commission must bid every three years for how much that contract fee will be. The statutory cap has been in place for a number of years and the Commission is concerned that when they go out to bid, if the fee is not increased, they may not be able to get a company that is a qualified bidder to be able to perform this service for them.

MOTION:

Senator Tippets moved, seconded by **Vice Chairman Malloy**, to send **S1225** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

S1226

Relating to Idaho Real Estate License Exam Fee Cap. Ms. Jackson-Heim, said that active status real estate licensees are required to maintain errors and omissions insurance. The Commission contracts with an insurance carrier to provide a group policy for our licensees. There is presently a premium cap of \$200 per year, and **S1226** would amend the license law to increase the cap to \$250. We are in the last year of a three-year contract with our insurance provider, and the premium is presently \$186 per year.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to send **S1226** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

S1227

Relating to Idaho Real Estate Related Continuing Education. MiChell Bird, Education Director, Idaho Real Estate Commission, advised this bill pertains to continuing education requirements of their licensees. Idaho's Code permits some courses to be taken in other jurisdictions or other professions and these courses can be used to meet Idaho's continuing education requirements for real estate licensees. This legislation would add language to clarify those non-certified courses must be somewhat equivalent to the Idaho certified courses by meeting same minimum requirements as the courses certified by the Commission.

MOTION:

Senator Smyser moved, seconded by **Senator Stennett**, to send **S1227** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

S1228

Relating to Real Estate Term Language Update. Ms. Jackson-Heim, stated **S1228** is a clean-up bill to delete a couple of obsolete references left over from previous law changes. They request that the word "revoke" be taken out of 2012. Section D. because they added a section 4 "revoke licensee" which has its own section. They are also deleting the term sub-agents from their agency law because the term is obsolete.

MOTION:

Senator Johnson moved, seconded by **Senator Cameron**, to send **S1228** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

PRESENTATION: **Fraud Awareness Coalition Presentation. Bill Deal, Director, Department of Insurance**, said that the Idaho Fraud Awareness Coalition is present today to give a brief presentation on the status of Fraud in Idaho. The coalition is a distinct entity and is sponsored by the Department of Insurance and is funded by membership fees. The Coalition sends a consistent message that is sent to consumers which is effective and efficient in the method to increase the awareness of fraud in Idaho. The Coalition was allowed a segment on Local News 8 in Pocatello warning their citizens "if someone contacts a senior or any other individual and is an unsolicited contact this should send up a red flag it could be fraud." The Coalition continues to provide outreach to service clubs, senior centers and other organizations (Attachment 1 pamphlet).

Lonny Tutko, Deputy Attorney General, Consumer Protection Division, stated that their office enforces the Idaho Consumer Protection Act and related statutes that protect consumers and businesses from unfair or deceptive acts and practices. Last year their enforcement efforts obtained over \$8 million in restitution for the state and its taxpayers. Consumer protection laws help keep unfair competition out of the market place. The market place works best when people can base their decisions on truthful information. Idaho citizens reported over \$6 million in losses due to fraud in 2011. The fraudsters use fake E-mail accounts, fake phone numbers, rented mailboxes, and other forwarding systems that keep them just out of the reach of law enforcement. Over the past few years Consumer Specialists from the Attorney General's Office have visited communities throughout the state speaking at meetings with community leaders and sharing their education CD's to combat the fraud schemes. This basic knowledge has allowed many citizens to be forewarned before becoming a victim. These prevention methods have helped citizens to combat these fraud practices because it is hard to recover money once it is scammed. Raising awareness, educating individuals about the dangers of fraud and how to report it and avoid being victimized is the best way for their Division to protect Idaho Citizens.

Michael Mulconery, Special Investigation Unit for State Farm Insurance, advised that he would like to draw the Committees attention to those things that underlie organizations such as the Idaho Fraud Awareness Coalition. When you learn of a fraudulent activity that injures a constituents the Coalition is a resource that you can present as an avenue for help to your constituents. The Coalition is a resource for awareness, education and action in helping individuals understand the problem of fraud and perceive it as a malicious common enemy. Such awareness will give them a sense of being an ally in the fight against it. They hope that watching out for one's neighbor as well as oneself will be rejuvenated in our communities. The Coalition is dedicated to helping individuals become part of the community that is aware, watchful and engaged in the fight against fraud for the benefit of all.

Les Lake, Regional Forensic Accounting Manager, Eide Bailey, stated the truth is good enough. In this budget year the estimated loss to fraud is 9.8% or \$592 million. What can be done to stop this drain on the budget? Three out of four business owners will be victimized by fraud. Common types of fraud are: 1) Billing schemes; 2) Corruption in management; and 3) Check tampering and skimming fraud. Who commits these types of crimes? They are your most dedicated, most loyal, most trusted staff people, who have been with you five years or more, in their 40's to mid-60's. If we employers would ask the tough questions and hold individuals accountable for the decisions they make, there would be the opportunity to reduce fraud.

**Department of Insurance
Rules Review**

DOCKET NO.

18-0105-1101

Health Carrier External Review. Tom Donovan, Deputy Director, Department of Insurance, said this rule before you stems from two house bills that were enacted last year **H131** and **H299**. These bills amended Idaho's External Review Act process. **H131** was a Department of Insurance bill that made changes to the External Review Act to conform to the NEIC model. It did three main things: 1) Expanded the list of types of denials that were eligible to go outside for external review; 2) The scope of urgent care requests was expanded; and 3) A health carrier could not require the covered person to follow the internal grievance process if the health care did not provide adequate notice to the consumer. **H299** provided that a single funded self-employer plan could elect to follow this external review process.

Page 127 in the Pending Rule Book under Sections 20 and 22 amended the language concerning individuals only using the forms that were set forth in the appendix; but rather that some variation would be allowed. Page 128, Section 24 was revised that independent review organizations did not have to submit annual reports, because they were unnecessary. Section 24 has new language to provide a mechanism for how the self-funded plans would notify the Department that it was choosing to follow the State of Idaho External Review Process. Page 130, 133 and 138 make changes to conform with legislative changes of last year.

The Department of Insurance received 13 requests for external review in 2010. In 2011 they received 30 requests and a third of them were overturned by the review organization. In 2012 the Department has already received seven external review requests. There were many questions from the Senators on how the review process is implemented.

MOTION:

Senator Cameron moved, seconded by **Senator Smyser**, to adopt Docket No. 18-0105-1101. The motion carried by **Voice Vote**.

18-0146-1101

Recognition of New Mortality Tables for Use in Determining the Minimum Standard of Valuation for Annuities and Pure Endowment Contracts. Mr. Donovan, stated the Department became aware that it was one of seven states across the country that did not have a recent updated National Association of Insurance Commissioners (NAIC) model addressing the mortality tables for a standard valuation for annuity and Group Annuity Mortality (GAMA) contracts. Idaho's current rule was based on a 1984 (NAIC) model rule. The update to this rule on page 141 will update the rule to the 1996 (NAIC) version which most states use. The majority of the rule deals with incorporating actuarial tables by reference. The insurance industry uses these tables for providing minimum valuations for consumers. The changes are to update Idaho's standards to make them consistent with industry standards and recognizing mortality tables because longevity has increased the benefits for Idaho consumers.

MOTION:

Senator Goedde moved, seconded by **Vice Chairman Malloy**, to adopt Docket No. 18-0146-1101. The motion carried by **Voice Vote**.

18-0150-1101

Adoption of the International Fire Code. Mark Larson, State Fire Marshall, said this rule change deals with some modifications to the Fire Code in the last legislative session. **Mr. Larson** stated that he had included supplemental information for this docket (Attachment 2) which will help clarify the rule and the language in the Fire Code. On page 149 they delete the language "and the Fire Code Official shall not be removed from office except for cause and for full opportunity to be heard on specific and relevant charges by the appointing authority" (Section 103.2, 2009 International Fire Code/Attachment 2). This language has been in all of the family of building codes, published by the International Code Counsel. Overtime, the section that is being removed had been removed from all of the other building codes but not the Fire Code. The language will now read "the Fire Code Official shall be appointed by the chief

appointing authority of the jurisdiction." In Idaho the Fire Code Official is typically a Fire Chief of a municipal government and is responsible to the mayor and city council or if it is a fire district he is responsible to the commissioners. On page 150 the stricken language in the rule (Section 906, Portable Fire Extinguishers 1., Exception/Attachment 2) was in previous adoptions of the Fire Code. **Mr. Larson** had deleted the exemption highlighted which indicated a new and existing group A. assembly type license, B. business groups and E. schools occupancies. Exception: In new and existing Group A, B and E occupancies be equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Item 2 through 6. The removal of the exemption which stated that you needed to keep fire extinguishers in place in most buildings that have certain types of sprinkler heads. During the adoption process, last year, one of the House Representatives asked that the exemption be placed back into the rule that would allow schools that are equipped with that type of sprinkler not be required to have portable fire extinguishers in corridors. Being exempted from having these extinguishers they do not have to purchase, maintain or annually test them. This results in savings for the schools. On page 150, the final change (Section 903.2.7 Group M, Item 4./Attachment 2) requires sprinklers in a Group M mercantile store that is used for the display and sale of upholstered furniture.

MOTION: **Senator Schmidt** moved, seconded by **Vice Chairman Malloy**, to adopt Docket No. 18-0150-1101. The motion carried by **Voice Vote**.

**Division of Human Resources and Personnel Commission
Rules Review**

DOCKET NO.
15-0401-1101

Rules of the Division of Human Resources and Idaho Personnel Commission. Michael Savoie, HR Program Manager, Division of Human Resources and Personnel Commission, stated the rule changes in this docket are to update the language to be in compliance with changes made to Idaho Code during the last legislative session. Page 101, Section 102., 03. Disabled Veterans' Preference has been amended to extend preference of employment for disabled veterans so that any disabled veteran who is provided on the hiring list is to be provided an opportunity to interview for that state position. Prior to this change the only benefit for disabled veterans was for only those who appeared in the top ten on the hiring list. The State of Idaho recently changed the number of applicants who can appear on the hiring list from ten to twenty-five names. The final change on this docket is for probationary periods for classified employees. Last year *Idaho Code*, Title 57, Chapter 53 was amended to clarify that time served in a temporary assignment could only go toward completion of an entrance probationary period. The time served in acting appointment could only go toward the completion of the promotion probationary period. This docket amends the rules of the Division to reflect this change in Idaho Code. It removed all references to acting appointments service credit going toward the fulfillment of entrance probation in one rule and creates a new rule clarifying the acting service credit that only goes to the completion of the promotional probationary period.

MOTION: **Vice Chairman Malloy** moved, seconded by **Senator Stennett**, to adopt Docket No. 15-0401-1101. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 3:07 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
 1:30 P.M.
 Room WW54
 Tuesday, January 31, 2012

SUBJECT	DESCRIPTION	PRESENTER
Docket No.	Public Employee Retirement System of Idaho Rules Review	
59-0106-1101 Pg. 183-192	PERSI Retirement Rules	Joanne Guilfooy, Deputy Attorney General
59-0106-1102 Pg. 193-195	PERSI Retirement Rules	
Docket No.	Industrial Commission Rules Review	
17-0209-1102 Pg. 104-110	Medical Fees	Patti Vaughn, Medical Fee Analyst
17-0211-1101 Pg. 111-124	Rules Governing Security for Compensation - Self Insured Employers	Jane McClaran, Financial Officer
Docket No.	Bureau of Occupational Licenses Rules Review	
24-0101-1101 Pg. 151-156	Rules of the Board of Architectural Examiners	Roger Hale, General Counsel
24-2201-1101 Pg. 157-159	Rules of the Idaho State Liquefied Petroleum Gas Safety Board	
	Pending Fee Rules	
24-0401-1101 Pg. 25-28	Rules of the Idaho Board of Cosmetology	
24-1801-1101 Pg. 29-45	Rules of the Real Estate Appraiser Board	
24-2501-1101 Pg. 46-48	Rules of the Idaho Driving Businesses Licensure Board	

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

COMMITTEE MEMBERS

Chairman Andreason
 Vice Chairman McKague
 Sen Cameron
 Sen Goedde
 Sen Smyser

Sen Tippets
 Sen Johnson
 Sen Stennett
 Sen Schmidt

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 31, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

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

MINUTES: **Senator Stennett** moved, seconded by **Vice Chairman Malloy**, to approve the minutes of January 24, 2012. The motion carried by **Voice Vote**.

**Public Employee Retirement System of Idaho
Rules Review**

DOCKET NO.

59-0106-1101

PERSI Retirement Rules. Joanna Guilfooy, Deputy Attorney General, PERSI, stated this docket changes Retirement Rule 162 to adopt new contingent annuitant factors for the Public Employee Retirement System of Idaho (PERSI) members who retire on or after July 2011. When a PERSI member retires they can choose a regular retirement which is a monthly benefit for their lifetime only or the member can choose a contingent annuitant option. A contingent annuitant option would give the member a lower benefit each month for their lifetime and allows them to name a contingent annuitant that will get the same benefit for the remainder of the contingent annuitant's lifetime. Because the member benefit is lower the factors vary depending on the age difference between the contingent annuitant and the member. These factors are in place to keep it equal to the value that the member would get if they had just selected straight retirement instead of the contingent annuitant option.

MOTION: **Vice Chairman Malloy** moved, seconded by **Senator Schmidt**, to adopt Docket No. 59-0106-1101. The motion carried by **Voice Vote**.

59-0106-1102

PERSI Retirement Rules. Ms. Guilfooy, said this docket changes Retirement Rule 552 which canceled the schedule and increased the contribution rate to the sick leave fund paid by public schools. Prior to July 1, 2006 there was only one rate per school; on July 1, 2006 a rate increase went into effect with terms based on how many days of sick leave teachers would receive. There were other special increases for July 1, 2007 and 2008. These increases were subsequently delayed as temporary rules. After the most recent actuarial evaluation of the sick leave fund in 2010, the Board determined, based on that valuation, that the rate increases would be taken off data and the rates will stay at the July 1, 2006 rate. **Senator Smyser** asked for clarification of the rate. **Ms. Guilfooy** replied that the current rate for schools is nine to ten days of sick leave 1.16% of payroll and for eleven to fourteen days of sick leave 1.26%.

MOTION: **Senator Smyser** moved, seconded by **Vice Chairman Malloy**, to adopt Docket No. 59-0106-1102. The motion carried by **Voice Vote**.

DOCKET NO.
17-0209-1102

**Industrial Commission
Rules Review**

Medical Fees. Patti Vaughn, Medical Fee Analyst, Industrial Commission, stated in accordance with *Idaho Code*, 72-803, the Industrial Commission has adopted rules for the annual adjustment of medical reimbursement for workers' compensation medical services. We now request your final approval of this Rule. Workers' compensation physician services are paid according to a Resource Based Relative Value Scale (RBRVS) method of reimbursement, where the acceptable charge is the product of a relative value unit assigned to each medical procedure by the Centers for Medicare & Medicaid Services (CMS), and a corresponding monetary conversion factor determined by the Industrial Commission. The table spanning pages 106-107 shows the conversion factors assigned to each medical service category. Several of these service categories were adjusted during the 2011 Legislative Session. Further adjustments of these categories are not found to be warranted at this time. The categories of anesthesia and radiology, however, have not experienced any adjustment since July 1, 2008. Therefore, upon review of a variety of indices, including but not limited to the Medicare Economic Index, the Consumer Price Index (CPI), and the change in the Idaho state average weekly wage, the following adjustments are found to be appropriate. The anesthesia conversion factor will change from \$ 60.05 to \$ 60.33 (+0.46%). The radiology conversion factor will change from \$ 87.72 to \$ 88.54 (+0.93%). No additional changes to the physician fee schedule have been adopted at this time.

Senator Goedde stated in the fall of 2010 the Industrial Commission was in Coeur D'Alene and at that time there were a number of family practitioners that came forward to make a very compelling argument for equitable fee payments under the RBRVS. Has the Industrial Commission looked into the reimbursement scale between the family practitioners and specialists? **Ms. Vaughn** replied that the Industrial Commission did take this into consideration and made some changes last year. One of the bigger changes was in that category. **Senator Schmidt** stated, since he is a family physician, he had noticed these changes last year in the RBRVS and he thought they were quite appropriate. But family medicine payment is still approximately half of what is paid to the specialty physicians in this Scale. Will there be further changes to the RBRVS concerning this fee disparity in the future? **Ms. Vaughn** replied that no specific changes have been discussed at this time, but the consensus is to try overtime to move toward fewer conversation factors.

Ms. Vaughn spoke to the hospital and Ambulatory Surgery Center (ASC) fee schedule on page 108. New methods of reimbursement were adopted last year and just recently went into effect on January 1, 2012. The rates established by this rule for inpatient and outpatient services have not been in effect a sufficient amount of time to assess the need for any adjustments. Therefore, no rate adjustments have been adopted for the facility fee schedule. Since the drafting of our rule, CMS adopted changes to a component of the Ambulatory Payment Classification (APC) reimbursement method used for hospital outpatient and ASC services that left a portion of our rule ambiguous. Therefore, as found on page 109, the Commission has adopted a technical language correction to avoid having to continually adopt responsive language to periodic changes made by CMS. We ask for these changes to become effective on July 1, 2012, at the start of the new fiscal year. Your approval of this rule is requested to help ensure adequate access to medical services for Idaho's injured workers as well as containment of medical costs that may result in additional costs to employers.

Senator Cameron asked for the definition of what the Industrial Commission feels is a reasonable charge? **Ms. Vaughn** replied typically if there is a dispute of whether a charge is reasonable it can come through the Commission's Fee

Resolution process. They would hold it within the parameters of usual, meaning that hospitals cannot charge more than they are charging non-workman's comp and cannot exceed the 90% of what Idaho providers are tracking for the services. **Senator Cameron** advised the 90th percentile of your answer that has been a normal standard for usual and customary, but that is not what the rule spells out. When you say "reasonable charge," is it the actual charge of the physician or the medical service charges for the service or whether that means the usual customary charge, rates that are being paid by Medicaid and Medicare patients, or a discounted rate that might be paid for a patient that is insured with Blue Cross? How is the Commission navigating the "reasonable charge"? **Ms. Vaughn** answered there is a difference between what is charged and what is paid. The Industrial Commission does not have data that they can go to in establishing reasonable charges. They do rely on the parties to make their case and if there is still room for doubt they survey providers and determine whether the charge is reasonable.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to adopt Docket No. 17-0209-1102. The motion carried by **Voice Vote**.

17-0211-1101

Rules Governing Security for Compensation - Self Insured Employers. **Jane McClaran, Financial Officer, Industrial Commission**, advised the Idaho Industrial Commission has had growing concern over whether security requirements are adequate to ensure the protection of injured workers in the event of an insolvency of a self-insured employer. Last year, the legislature adopted comprehensive changes to the rules governing security for compensation, including the separation of rules governing self-insured employers from those governing insurance carriers. Subsequently, the Commission focused its efforts during the past year on further refining requirements for self-insured employers and conducted rulemaking through a subcommittee of the Commission's Advisory Committee. All self-insured employers were invited to attend those meetings and representatives from Ada County, City of Boise, City of Nampa, Idaho Power, the LDS Church, Les Schwab, J. R. Simplot, and St. Luke's in addition to several other stakeholders actively participated. The subcommittee members and Advisory Committee members reached consensus, and in fact, no member expressed opposition to any of the proposed changes. Additionally, the Commission elected to hold public hearings in all three regions of the state in October 2011 (dates and locations listed on page 112). Again, no one testified in opposition.

The most significant changes to the rules on security for compensation for self-insured employers include: 1) Expanding the qualification requirements - adds a five-year claims history, an insurance plan (including proposed excess insurance coverage), an actuarial study, and a feasibility study; 2) Providing more flexibility relating to security deposits – expands acceptable types of security, recognizes financially sound and actively managed employers by allowing credits toward the required level of security; and 3) Providing improved accountability in reporting – proposes an entirely new reporting form that transitions self-insured employers from reporting the nebulous "outstanding awards" to reporting "total unpaid liability." Reporting frequency decreases from quarterly to semi-annually and security adequacy is evaluated annually.

Senator Cameron asked is the Industrial Commission loosening the restrictions on a self-insured plan? **Ms. McClaran** replied the Commission is not loosening the requirements. You will see on page 115 of the rule the addition of several new requirements for those who are applying to become self-insured. The Commission is allowing the current self-insured to have some flexibility but increasing the security deposit requirements which is among the proposed changes. In response to a question from **Senator Cameron**, **Ms. McClaran** advised that there is criteria for self-insured employers on page 115. The Commission requires the self-insured

employers to report total unpaid liability. It is a much larger amount that self-insured employers must report to the Commission. The security related to the liability divide a primary security deposit which will range between \$350,000 to \$600,000 plus sufficient security for their total unpaid liability. **Senator Cameron** asked are these employers reporting all unpaid liability for their businesses? **Ms. McClaran** advised that on page 121 shows the report form and it is the liability specifically to work comp claims. In response to a question from **Senator Johnson**, **Ms. McClaran** advised that on page 114 are the proposed changes. At this time the Commission does not require an actuarial study be included with their documents. The credit for insurance, on page 115, shows the primary security deposit is a credit toward the total security required.

MOTION: **Senator Goedde** moved, seconded by **Senator Cameron**, to adopt Docket No. 17-0211-1101. The motion carried by **Voice Vote**.

DOCKET NO. **Bureau of Occupational Licenses
Rules Review**

24-0101-1101 **Rules of the Board of Architectural Examiners.** **Roger Hale, General Counsel**, said this docket primarily focuses on updating and making some changes in some education requirements. On page 153 under 004.,2 the Board is updating the NCARB Handbook for Intern and Architects from 2009 to 2011. Under 450.01 the Board is increasing the amount of continuing education that is required from eight to twelve hours each year. The continuing education renewal date will now be based on a calendar year. On page 154, continuing education has been inserted as a requirement to reinstate a license. Under 09. they are revising that the nature of the program be more consistent with the national program. On page 155 under 04. they have increased the record keeping requirement from three years to five years for continuing education. On page 156 the Board is eliminating an exemption for the continuing education if you are a resident of another jurisdiction and you meet that states continuing education requirement then you were exempt from meeting Idaho's requirement.

MOTION: **Senator Smyser** moved, seconded by **Senator Cameron**, to adopt Docket No. 24-0101-1101. The motion carried by **Voice Vote**.

24-2201-1101 **Rules of the Idaho State Liquefied Petroleum Gas Safety Board.** **Mr. Hale**, advised this Board uses the LPG Gas Code to set the standards for controlling gas dealers as well as storage facilities. This Board is updating the code that it uses to set standards for its profession from the 2004 code to the 2011 edition.

MOTION: **Senator Schmidt** moved, seconded by **Senator Goedde**, to adopt Docket No. 24-2201-1101. The motion carried by **Voice Vote**.

DOCKET NO. **Bureau of Occupational Licenses
Pending Fee Rules**

24-0401-1101 **Rules of the Idaho Board of Cosmetology.** **Mr. Hale**, stated that the Bureau of Occupational Licensing collects funds for all of the Boards and the funds go into a single account under Occupational Licenses. The pending fee rule before you is a decrease of license fees. The Cosmetology Board would like to decrease their license fees by a total of \$124,000. If you add the decreases and the increases of the Boards, the Bureau's pending fee rule is a decrease of \$50,000. In response to a question from **Senator Cameron**, **Mr. Hale** advised as of December 31, 2011 the Board of Cosmetology had \$1,000,563,867 in their account. The action they propose will reduce this account annually by \$107,000. There are approximately 19,000 licensees under the Cosmetology Board. **Senator Cameron** asked for clarification on how much the Board will project to generate versus how much it will expend each year? **Mr. Hale** stated that the Boards budget for fiscal year of

2011 was \$525,000 and as of December 31, 2011, it had expended \$261,000 of the projected budget.

MOTION: **Senator Tippetts** moved, seconded by **Senator Stennett** to adopt Docket No. 24-0401-1101. The motion carried by **Voice Vote**.

24-1801-1101 Rules of the Real Estate Appraiser Board. **Brad Janice**, said this docket includes some needed housekeeping changes for clarification and consistency but there are a couple of indicative changes. On Page 29, Subsection 010, 07 has been amended to read "Classroom Hour." Fifty minutes out of each sixty minute hour in a setting that is set forth in these rules". On Page 33, Subsection 150; Fees charged to their licensees are mandated and set forth through the Appraisal Foundation of Congress 02; Original License will increase from \$125 to \$140; 03, License Renewal will increase from \$350 to \$365; and 06 Original License Via Reciprocity will decrease from \$125 to \$100. There are approximately 171 courses that our approved by the Board for continuing real estate education and currently they charge no fee to these providers. The Board approved to charge the providers a fee and setting that fee at \$100 for each course of the providers. 12. An increase from \$25 to \$40 to be submitted by the state to the federal government. Continuing Education is changing to a two year cycle as opposed to a one year cycle. Subsection 350, c is new and states that examination and successful completion of Certified Residential Appraiser examination is added to the guidelines of the Appraisal Qualifications. 401, 02 Hours required. The hours of equivalency have been raised from 15 to 30 of classroom hours of instruction in courses or seminars during the two years. The courses must cover the most recent Uniform Standards of Professional Appraisal Practice (USPAP) edition.

Senator Goedde said on page 32 subsection 07, classroom hour language has been struck that addresses on-line virtual classrooms, has that been moved to another section in your rule? **Mr. Hale** stated that the rule does not specifically provide for on-line education. If you look on page 44, the rule speaks to continuing education on section 401.03 which defines different possibilities for continuing education credit. The Boards intent on revising that section was to allow the continuing education rules to govern many acceptable venues for continuing education hours. The Board does approve on-line education courses and has done so for some time. **Senator Goedde** asked for language to be placed in the rule that would stipulate that virtual on-line instruction courses would be acceptable for continuing education hours. **Mr. Hale** stated that the Board could prepare a letter that addresses virtual on-line instruction courses be accepted for continuing education.

Senator Tippetts stated that the language on page 32 states that fifty minutes out of each sixty minute hour shall be in a setting that is set forth in these rules. Where is it set forth in the rules what kind of setting the training that must be in for the fifty minutes out of each sixty minutes? **Mr. Hale** replied on page 44 the rule explains different types of courses and the requirements of those courses. It also states the requirements for the instructor and that ultimately the Board must approve the venue of instruction. **Senator Tippetts** stated that if they are defining the fifty minutes out of sixty minutes be in a setting, that setting needs to be defined in the rule.

Senator Tippetts stated that on page 34 the rule proposes a continuing education provider application fee. Would you please describe to the Committee what is the process for reviewing a provider. **Mr. Janice** stated that they review each of the courses to see if the content of the courses meet the needs of their licensees and offer current up-to-date information. Reviewing the agenda of each of these courses can take up to five days, but one to three days for most of the courses. The number of courses that they review does become a burden on staff. **Senator Tippetts** asked

if a course provider wants to be approved to provide classes, would the provider send in \$100 application fee to be approved as a provider or not until their company has a course approved and then would they send in a \$100 fee for each of their courses? **Mr. Janice** explained that the \$100 fee is per course. **Senator Tippetts** stated the per course fee is not very clear in the rule. The rule should spell out that each provider is required to submit each course for approval and that requires a fee.

MOTION: **Senator Goedde** moved, seconded by **Senator Johnson** to hold Docket No. 24-1801-1101 in Committee. The motion carried by **Voice Vote**.

24-2501-1101 Rules of the Idaho Driving Businesses Licensure Board. **Mr. Hale** advised that the House Business Committee voted to deny this docket this afternoon. This rule would need approval from both sides to proceed into rule.

MOTION: No motion.

There being no further business, the meeting adjourned at 2:53 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 02, 2012

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION:	Idaho Nonprofit Center: Economic Impact of the Nonprofit Sector in Idaho	Lynn Hoffmann, Executive Director ID Nonprofit Center
	Bureau of Occupational Licenses Pending Fee Rule	
24-1801-1101	Rules of the Real Estate Appraiser Board	Roger Hale, General Counsel

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 02, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, and Schmidt

ABSENT/ EXCUSED: Senator Stennett

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

Senator Andreason called the meeting to order at 1:29 p.m.

PRESENTATION **Idaho Nonprofit Center: Economic Impact of the Nonprofit Sector in Idaho, Lynn Hoffmann, Executive Director, Idaho Nonprofit Center**, advised that the Idaho Nonprofit Center is a statewide association of nonprofits. Their mission is to help all nonprofit organizations be more successful in their missions and support them to be conscientious in the stewardship of the donations of the generous citizens of Idaho. The Center wanted to explore the economic impact of the nonprofit sector on the state so they commissioned a study from University of Idaho with Economist Steve Peterson to examine the question.

Steve Peterson, Regional Economist, University of Idaho, stated for background information that he has completed approximately 50 studies in his career. His research expertise is in local and regional economic impact assessments for almost every industry in Idaho. The research is over a broad spectrum of industries including free range chickens, small modular nuclear reactors, health care, education, mining, wood products, and agriculture.

The charitable nonprofits are intermixed throughout the entire economy. In order to conduct the economic impact study, **Mr. Peterson** had to poll analysis for each prospective industry. These nonprofits touch on every industry in Idaho and the research had to establish the estimation of their impacts. The total direct employment in the charitable nonprofits is 45,000, 8.9% of the private sector jobs in Idaho. Ranked in the county economy they would rank fourth behind Ada, Canyon and Kootenai counties. They estimated that 400,000 Idahoans volunteer. They contribute 60.2 million hours of service per year, annualized into man years or jobs it comes to 28,000. The value of their service is \$1 billion in payroll contribution and \$1.2 billion in contribution to net product added in. The nonprofit industry ranks sixth in the state. The estimated economic impacts driven by money and travel that nonprofits bring in from out of state is 45%, of the total net revenues is \$3.2 billion and equals 27,000 jobs, \$1.4 billion in total compensation and \$1.35 billion in gross state product. The industry contributes about 2.4% or \$44 million in state property taxes. The Idaho Nonprofit Center contributes strongly to regional economy and there is no part of our lives that is not touched by the nonprofit industry.

Senator Symser asked within the last ten years was there any particular thing that stood out when they researched this industry? **Mr. Peterson** was surprised at the magnitude of the impact and growth of the industry and also the degree of depth and variety in the sector. **Vice Chairman Malloy** said that churches have not been included in your study, could you explain why? **Lynn Hoffman** replied that the study does not include a large percentage of churches because the Internal

Revenue Service (IRS) does not require churches to register and they do not file a tax return. If they were able to include churches in the research, there would be a huge increase in their economic impact figures. **Senator Schmidt** questioned the definition of nonprofit. Will a 501P3, not for profit organization, also be included under the Nonprofit Center? **Ms. Hoffman** stated that the definition of public charities by the IRS are all 501C3 organizations. The IRS classifies 28 other different types of nonprofit organizations, such as the chamber, trade associations, paternal associations, cemetery associations, etc. Their study focused exclusively on the number from the charitable nonprofits.

Bureau of Occupational Licenses

Pending Fee Rule

Rules of the Real Estate Appraiser Board

**DOCKET NO.
24-1801-1101**

Senator Goedde stated that he had met with **Mr. Hale and Tana Cory, Bureau of Occupational Licenses**, and they have provided some language that is appropriate to meet the concerns of Docket 24-1801-1101 which was placed on hold at our last Committee meeting.

MOTION:

Senator Goedde moved, seconded by **Senator Cameron**, to adopt Docket No. 24-1801-1101. The motion carried by **Voice Vote**.

**MINUTES
APPROVAL:**

Senator Johnson moved, seconded by **Vice Chairman Malloy**, to approve the minutes of January 26, 2012. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 1:48 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 07, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT To Be Heard	Appointment of Mark Holubar to the Idaho Personnel Commission to serve a term commencing November 17, 2011 and expiring July 1, 2017	
	Budget & Policy Analysis	Cathy-Holland Smith, Division Manager
	Consideration of a CEC Salary Increase	Donna Yule, Idaho Public Employee Association

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 07, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason convened the meeting at 1:30 p.m.

GUBERNATORIAL APPOINTMENT TO BE HEARD **Chairman Andreason** introduced **Mark Holubar**, the Governor's appointment to the Idaho Personnel Commission to serve a term commencing November 17, 2011 and expiring July 1, 2017. **Mr. Holubar** advised that he currently serves as the Director of Human Resources for the Idaho National Laboratory (INL) based in Idaho Falls. The educational background and the professional experience that he has gained in a career lasting over thirty years in the human resource and administration field will serve to assist his appointment to the Commission. **Mr. Holubar** currently serves as the Chairman of the Board of Trustees of the Museum of the University of Idaho. This appointment will offer the opportunity to serve the community and the state.

Senator Smyser asked **Mr. Holubar** what his biggest contribution will be to this Commission. **Mr. Holubar** replied that it would be his understanding of how the process should work in an employment situation. Throughout the thirty years of his career, he has worked to negotiate employer and employee interaction to make sure that the employee has had a voice. In assessing the leadership and organization where the employee is working to make sure that due process has been maintained in all of the issues that arose in applying policy correctly. This maintains that the process does not tilt too heavily to one side in the particular authority that comes with position. **Senator Johnson** asked what do you think would be the primary barrier in recruiting and maintaining future employees? **Mr. Holubar** said that there are many reasons why there could be barriers for employees working for the State of Idaho. However, as long as there is appropriate balance of work, compensation, and benefit structure it is a matter of assessing the individual's talent for the correct match for the open position in an organization. Matching these will draw good talent into the organization.

Budget & Policy Analysis, Cathy-Holland Smith, Division Manager, Legislative Services Office, advised that she would speak to the hand outs in the Power Point Presentation which are as follows: 1) Change in Employee Compensation (CEC) (Attachment 1); 2) "Change in Employee Compensation (CEC) FY2007 to FY2013" (Attachment 2) on page 25 is a table which reflects the twenty year history of the pay changes that have been given employees, judges, legislators, and elected officials; and 3) Section 67-5309C, *Idaho Code*, Title 67 Annual Surveys, Reports and Recommendations (Attachment 3). Since it has been some time since the Idaho Code has been changed to require the legislature to take action when it comes to the CEC and also to be able to fund a CEC you may not all know of the requirements. We will go over: 1) Governor's recommendation; 2) Code sections that apply to legislature; and 3) Discuss some

of the options of the legislature.

The Governor recommends reserving an amount equivalent to a one-time merit based 3% CEC for permanent employees to be distributed if General Fund revenues meet projections. When we talk about General Fund revenue we must consider which time-frame FY2012 or FY2013. The Governor recommends that if the state meets the 4.43% revenue increase for FY2012 in July 2012, half of the 3% CEC would be distributed to state agencies and public schools. Then if the state meets the revenue projections from July through December of 2012, in January 2013 the other half of 3% would be released to state agencies and public schools. The Economic Outlook Revenue Assessment Committee (EORAC) of the legislature accepted a 4.5% increase in FY2013, rather than the 5.78%. Whatever the legislature chooses, if they accept the Governor's recommendation or a recommendation from the legislative body. One of the key choices you will have to make is which revenue projection will you use as the cap. The cost of the Governor's 3% one-time merit would be \$41.1M General Fund. Public schools would receive \$25.4M and state agencies would receive \$15.7M. This also will restore funding for health insurance premium holidays of \$12.5M General Fund for state agencies. Legislative Services Office (LSO) took \$14.8M from emergency from the General Fund in FY2011 when they did budget cuts and now they are restoring the fund.

When the budget was set by the legislature in January 2009 a concurrent resolution was passed to distribute funds. The legislature has not done a concurrent resolution in 2010, 2011, 2012. Idaho Code states: "The legislature may, by concurrent resolution, accept, modify or reject the Governor's recommendations, but any such action by the legislature, at a minimum, shall address the four components and subsequent funding of each component required in this section. The failure of the legislature to accept, modify or reject the recommendations prior to adjournment sine die shall constitute approval of the Governor's recommendations, and such recommendations shall be funded through appropriations provided by law. The administrator of the division of human resources shall implement necessary and authorized changes to salary and pay schedule by rule. The director of the department of administration shall implement necessary and authorized changes to benefits."

Ms. Holland-Smith reminded the legislature where they have been in the process of the cuts in personnel funding over the last couple of years one of the key requests from Governor was that you give him and his managers the flexibility to manage personnel costs in a manner agency by agency. This was not an across the board mandate. We did remove the discounting funding in personnel costs and agencies, we did have furloughs and there were lay-offs. The workforce has reduced. The legislature has stayed silent on any other issues concerning personnel management and supported the Governor where it came to the management of salary changes. Some of our legislators and agencies had different ideas of what may have been going on. Some individuals thought that we had a pay freeze, there was no pay freeze. Some people remained concerned when there have been pay changes whether they were due to promotions, reclassifications, bonuses, or merit increases.

The Idaho Code in addressing compensation doesn't speak to public schools. This is the first time that LSO has had a major policy shift. In the past when there would be a CEC it would correspond with a CEC for public schools. Last year, based on changes in code, there is now a "Pay for Performance" in statutory allocation for the public school funding formula. When the Governor made his recommendation he did provide for that 4.5% increase in "Pay for Performance" and he also provided for the 3% CEC for both public school teachers, administrators, and classified employees.

The components that the legislature is requested to address and these are the same components that the Division of Human Resources addressed when they gave their presentation and compensation report at this Committee: a) A recommendation for market related changes necessary to address system wide structure adjustments to stay competitive with relevant labor markets. b) A recommendation for market related changes necessary to address specific occupational inequities. c) A recommendation for a merit increase component to recognize and reward state employees in the performance of public service to the citizens of Idaho. d) A recommendation for any changes to the employee benefit package, including any adjustments to the overall design of the benefit package and/or employee contributions. The recommendation of the state now is that there be no changes to these recommendations.

Ms. Holland-Smith reminded the Committee that the key component is the legislature adjustment whether it would be through a statutory proposal, or an appropriation bill that spoke to the recommendation of the legislature. The legislature has a choice and you can create different delivery methods if you so choose. There was some action taken some years ago for elected officials. They received a pay decrease in 2011 and that was an attempt to mirror a funding decrease that happened in 2010 of a 5% reduction in the state workforce. The individual elected officials took a 4% pay cut, while the state used the funding of the state agencies in the previous year of 2010. In January 2012 the constitutional statewide officers received a 4.1% increase in their salaries. These were judges or legislatures or other appointed officials. The Governor's recommendation does include a CEC, not only for the state agency personnel but also for appointed officials and judges.

Ms. Holland-Smith reflected on what LSO has seen in the dynamics and trends of all the workforce actions that have taken place to-date applied to all of the agencies. There were some fairly large agencies that were being very public on the stresses that they were under in order to meet their state index. In the Office of the Attorney General they found that their agency depends so heavily on the general fund that they had unique struggles. They didn't have much operating money because the agencies paid for the operating costs of the Attorney General and his office paid for the personnel cost. The Attorney General's office continues to have a significant number of vacant positions and are struggling to meet the requests of the agencies. The agencies continue to want services but the Office of the Attorney General cannot respond to their requests.

At the Department of Correction they found that they were no longer struggling with furloughs, but they were struggling with the high rate of turnover in the correctional officer category. They were spending more money trying to recruit and train individuals to fill the vacant positions. They did not have resources to pay for overtime for all of the posts. LSO found that the Tax Commission was an agency that was receiving resources while other agencies were being cut because there was the expectation that they could provide additional revenues that would sustain the rest of state government. The Tax Commission did not think that they could do a proper job from the audit and collection functions without adding support in the administrative sector of Human Resources and Information Technology. The Tax Commission came to the legislature to request support in transferring some of the money they got from audit and collections into the other divisions to help support their activities. The most striking issue that came out from the agencies during this downturn was there was a strong sense of fairness. If the resources they had been given had been given in a lopsided manner, they wanted to transfer those resources and spread them around and keep their employees satisfied and morale up.

Senator Tippetts asked have some of the agencies had salary savings that they have redistributed to provide a small increase to their existing staff? **Ms. Holland-Smith** replied that what they have found are agencies with dedicated and federal funds were diverting appropriations because they were not able to give pay increases. When they had turnover they were not able to reinvest into their workforce. If a senior individual left the agency and they hired a junior individual, they redistributed those funds. This year some agencies do have a recommendation to use some of their funds for pay raises. Many agencies stopped filling positions, even though they had the appropriation for them. Instead of using money for pay increases they were encouraged to revert those funds back to the general fund at the end of the fiscal year.

Senator Smyser asked is there anything that the state has done internally to support the employees who are at an all time low in morale? **Ms. Holland-Smith** stated that some agencies have limited staff who are able to work from home or the casual Friday.

Chairman Andreason asked for clarification on some statements in **Ms. Holland-Smith's** presentation. What is the amount of money that the Governor is using for the one time CEC bonus? **Ms. Holland-Smith** replied that the amount is \$41.1M for public schools and for state employees. Of that \$41.1M, \$25.4M is for public schools, and \$15.7M is for state government. **Chairman Andreason** asked what dollar amount would be needed to give a 3% salary increase across the board ongoing? **Ms. Holland-Smith** stated it would take the same dollar amount \$41.1M. The bottom line for 2013 would look exactly the same. It would be 2014 that would be different if it is the one time versus ongoing.

Consideration of a CEC Salary Increase, Donna Yule, Executive Director, Idaho Public Employee Association, stated her purpose before the Committee today is to request the legislature to give a 3% across the board pay raise to state employees. In the State of the State speech Governor Otter proposed setting aside \$41.1M to reward "our most deserving employees" with one time bonus payment. The Governor also recommended that the bonuses should be commissioned on tax revenues meeting projections.

Governor Otter also proposed setting aside \$45 million for tax relief. We noticed that the Governor's "tax relief" proposal is not conditioned on tax revenues meeting projections as are the one time pay increases. This makes it very clear that, at least according to the Governor's speech, our state employees are very low on the priority list.

Human Resources Administrator, Vicki Tokita, in her recent presentation before the Committee, stated that our state workforce went from 25,898 employees in 2008 to 24,090 employees in 2012. That is a decrease of 1,808 employees. Yet the workload for state employees didn't decrease. In fact, in some departments the work load has increased dramatically. **Ms. Yule** gave an example of the work load in Health and Welfare Office on Fairview (for detail please see Attachment 4).

Not only have state employees not had a raise in four years, many of them have actually seen pay cuts due to unpaid furloughs and office closures. Teresa Luna, Director of the Department of Administration, reported that the wages of our state employees are now 18.6% below market.

That is up from 15% below market in 2007. Executive Director, Don Drum, Public Employees Retirement System of Idaho (PERSI), reported that the number of employees retiring in the last few years has been unprecedented. Long time state employees have realized that their PERSI benefit will not grow if they continue working, so many have decided to retire early. Many of these long time employees are virtually irreplaceable at this time because there are no other state employees in the pipeline trained to replace them. This has also contributed to the deterioration of our state work force.

The morale of the state workforce is never reflected in the reports you receive here at the legislature, but it is a factor you should take into consideration. The morale of your state workforce is probably at an all-time low. I travel to as many state offices as I possibly can, and the stories I hear when visiting those offices are pretty much the same everywhere I go. Your state employees are working harder than they ever have. Many are working overtime off the clock simply to try to keep up with the increased workloads. And most are feeling unappreciated. When "tax relief" is higher on the Governor's priority list than salary increases for over worked employees, morale is obviously impacted in a negative way.

Governor Otter said, in his State of the State speech, that, and I quote, "you also will see a greater emphasis on ensuring the efficiency and prudent frugality that we've established in every agency of state government during the past three years become standard procedure. What we had to do then will become our new normal going forward." I urge you to visit your state offices and talk to your state employees and see if this is really what you want to become our "new normal." As our state's economy continues to improve, we hope you will allow your Department Directors to replenish some of these lost positions.

Today I'm here asking you to give an across the board salary increase to every state employee. We all know that a salary increase isn't going to solve all the problems of the state workforce. We know that, even if our employees get a pay increase, their work loads are still going to be extremely heavy. Many of them will continue to work unpaid overtime in an attempt to keep up with their workloads. At least they will know that you, their employers, appreciate the sacrifices they have made over the last four years of recession.

Vice Chairman Malloy stated you mentioned that there are state employees working overtime, off the clock, is this something that supervisors are asking these employees to do? **Ms. Yule** replied the supervisors are not asking them to do the overtime. The stories that she hears in her office are the employees cannot leave because there is a long line of people needing services, such as Health and Welfare. The employees are doing this overtime because the work does not go away, they can walk out the door at 5:00 but they are going to be that much further behind the next day.

Senator Tippetts asked what would be the percentage of a pay raise that would be meaningful to the employees if the 3% were not possible. **Ms. Yule** responded at least 2-2.5% would be considered a meaningful increase to the employees.

Senator Goedde asked would the employees rather not see anything rather than what the Governor has proposed? **Ms. Yule** replied the Governor's proposal is a one-time bonus payment. Every employee out there right now deserves a raise. It would be harder on morale to pick a few people to give a raise and not the rest.

Chairman Andreason asked **Ms. Holland-Smith** what is the cost for the Governor's bonus and what is the cost to give a 3% salary increase across the board ongoing? **Ms. Holland-Smith** said the cost to the general fund would be \$41.1M of the total \$25.4M public schools and \$15.7M for state agencies and the cost is the same whether it is a one time or an ongoing in 2013.

Alex Hymer, Idaho Association of Government Employees, stated that the 3% across the board ongoing salary increase is absolutely appropriate this year. The information he saw from the Bureau of Labor Statistics on the Cost of Living Index was from December 2010 to December 2011 it rose 3%. Anything less than 3% would represent less buying power.

Dale Tankersley, Member, Idaho Public Employee Association, former state employee stated as a taxpayer, he is concerned about the quality of the state work force. The state employees are what make the state go. It is the state employees everyday on the frontline doing their job. When the state loses its excellent employees then the state loses.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 09, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT To Be Voted On	Appointment of Mark Holubar to the Idaho Personnel Commission to serve a term commencing November 17, 2011 and expiring July 1, 2017	
<u>RS20752</u>	Relating to the Directory of New Hires	Bob Fick, Communcation Manager
<u>RS21113</u>	Relating to Secured Transactions	Mike Brassey, representing Uniform Law Commission
<u>RS21171</u>	Concurrent Resolution Rejecting a Pending Rule Docket of the Division of Building Safety	
<u>RS21174</u>	Concurrent Resolution Rejecting a Certain Rule of the Department of Administration	
<u>RS21236</u>	Relating to PERSI Sick Leave for Teachers	Senator Smyser
<u>S1268</u>	Relating to Insurance Deductibles	Lyn Darrington, representing State Farm Insurance

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 09, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

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

MINUTES: **Senator Tippets** moved, seconded by **Senator Stennett**, to approve the minutes of January 31, 2012. The motion carried by **Voice Vote**.

Senator Smyser moved, seconded by **Vice Chairman Malloy**, to approve the minutes of February 2, 2012. The motion carried by **Voice Vote**.

**GUBERNATORIAL APPOINTMENT:
TO BE VOTED ON** Appointment of **Mark Holubar** to the Idaho Personnel Commission to serve a term commencing November 17, 2011 and expiring July 1, 2017.

MOTION: **Senator Smyser** moved, seconded by **Senator Schmidt**, to send the gubernatorial appointment of Mark Holubar to the Idaho Personnel Commission to the floor with a recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

RS20752 **Relating to the Directory of New Hires, Bob Fick, Department of Labor, Communication Manager**, stated this bill provides a penalty for failure to comply with the new hire reporting which is part of Welfare Reform. This legislation requires employers to report to the Department of Labor each new hire within 20 days of the hiring date. The law, over the last fourteen years, has been complied with by 30% of the largest employers in the state. They are reporting about 70% of the new hires. The other 70% of the smaller employers are not complying with the law. The lack of compliance makes life difficult for the Department of Health and Welfare to track down individuals who owe back child support. Failure to file new hire reports with the Department of Labor extends the period of time in which they are able to identify individuals who have gone back to work and continue to collect unemployment benefits. If the Department of Labor can garner this new hire information in a timely manner, the Department can recover almost all of the monies that are paid to individuals who have returned to work and should be off the unemployment insurance. Usually the Department finds out about the new hires through the employer's quarterly reporting and that can be four or five months down the road. By that time it becomes more difficult to recover the over payment of unemployment benefits. All of the recovered monies go into the unemployment trust fund account and maintains the trust fund balance, and the higher the trust fund balance the lower the employer's taxes.

Senator Cameron asked how did the Department arrive at the \$25 civil monetary penalty? **Mr. Fick** replied this is the penalty the Department used

when they proposed a penalty for failure to comply with the requirements of the Professional Employer Organization report that follows all of the civil penalties in the law. **Senator Cameron** asked if **Mr. Fick** could give an estimation as to what the Department would spend in collecting the penalty? Also, how will the Department know that the employer has not filed on the appropriate time-frame. **Mr. Fick** stated that the Department identifies new employees now that have not been identified in the new hire report on the quarterly reports. If they do not receive a new hire notification within that quarter, they know that the employer has not complied with the new hire reporting. The Department eventually identifies this legislation will help to collect the information in a more timely manner. **Senator Cameron** stated are you charging the penalty from the date that the new hire shows up on the quarterly report. **Mr. Fick** answered the \$25 is a one time penalty. If the employer fails to report the new hire within the proper time in that quarter, they will be charged \$25 per employee that they have not reported or up to \$5,000 per quarter. **Senator Cameron** said that he is reticent to impose another fine or something that could be perceived as a barrier for employers to hire employees. **Mr. Fick** stated that the number of new hires that are not reported is approximately the same each year. The Department intends to have an intense education campaign this spring to make sure that employers understand their reporting responsibilities. The Department believes that the employers who are not filing the new hire reports are the small employers who hire infrequently. It is a simple process to report the new hire by faxing into the Department of Labor the new hires W-4, which satisfies the reporting requirements of the new hire.

MOTION: **Senator Tippetts** moved, seconded by **Senator Smyser**, to print **RS20752**. The motion carried by **Voice Vote**.

RS21113 **Relating to Secured Transactions, Mike Brassey, representing Uniform Law Commission**, advised the purpose of the legislation is to update to the current amendments in Article 9 of the Uniform Commercial Code (Attachment 1 Commercial Transactions). Idaho adopted all of the Commercial Code as it became available. Article 9, Chapter 9, *Idaho Code*, was adopted in 1967. In 1998 the law went through significant revisions. The Commission reviews its uniform laws periodically and asks the states to adopt the updates to the uniformed statute. Idaho has adopted the uniform amendments for 1998. This bill before you deals with the law of secure transactions. This law deals with situations where an individual buys personal property and gives a security interest in the property as collateral for the payment of the loan. For example: The security interest given in a car, if you buy on credit, is determined by these statutes. This law has been adopted in all of the states.

MOTION: **Senator Cameron** moved, seconded by **Senator Goedde**, to print **RS21113**. The motion carried by **Voice Vote**.

RS21171 **Concurrent Resolution Rejecting a Pending Rule Docket of the Division of Building Safety.** **Senator Tippetts** stated this resolution is the legislation to finalize the action the Committee took in rejecting the adoption of 2011 National Electric Code.

MOTION: **Senator Tippetts** moved, seconded by **Senator Cameron**, to print **RS21171**. The motion carried by **Voice Vote**.

RS21174 **Concurrent Resolution Rejecting a Certain Rule of the Department of Administration.** **Senator Cameron** stated this Committee voted to rejection language in this rule.

MOTION: **Senator Cameron** moved, seconded by **Senator Smyser**, to print **RS21147**. The motion carried by **Voice Vote**.

RS21236

Relating to PERSI Sick Leave for Teachers. **Senator Smyser** stated in regards to the cuts we have had and the changes in education in the last three years this particular bill provides a safety net for educators who have been subject to a Reduction in Force. Under current code, an individual who terminates employment with their school district must secure employment in another district or with another state education agency in the ensuing school year or lose any accumulated sick leave. **RS21236** would allow an education employee who has lost their job due to a Reduction in Force up to three years to find new employment without risk of losing accumulated sick leave. **Vice Chairman Malloy** asked for clarification on the no fiscal impact segment of the bill. If the sick leave would normally be unavailable after the first year and this legislation would extend that leave out another two more years this liability would affect the fiscal impact on a school district. **Senator Goedde** stated he had the same question as **Vice Chairman Malloy** directed his question to Director Don Drum, PERSI, and his answer was this bill would have no fiscal impact. **Senator Schmidt** stated that his understanding is the district funds a sick leave account so the district would be required to fund that account. **Senator Smyser** stated that was not correct that PERSI holds the accumulated sick leave.

MOTION:

Senator Goedde moved, seconded by **Senator Stennett**, to print **RS21236**. The motion carried by **Voice Vote**.

S1268

Relating to Insurance Deductibles. **Lyn Darrington, representing State Farm Insurance** advised that this bill is a proposal seeking an adjustment to the auto insurance deductible upon renewal of a policy for comprehensive and collision. The Department of Insurance communicated that it would not oppose the adjustments as outlined in **S1268**. In 1969 this law was first passed which prohibited an insurer from requiring a deductible of more than \$100 as a condition for renewal. Also at that time there was no distinction between comprehensive and collision. Idaho has unique laws that prevent an insurer from non-renewing a customer, even if the customer routinely presents multiple comprehensive or collision damage claims in a calendar year. There are some exceptions in Section 41-2507, *Idaho Code*, 1) a DUI (driving under the influence) conviction; 2) Racing a vehicle; 3) Suspended license; and 4) Demonstrated health impairment. Routinely making claims is not one of the exceptions for non-renewal. Given Idaho's limits to the insurers unilateral ability to cancel a risk even at the end of a contract policy. This section will provide insurers with the ability to require that the customer carry a reasonable insurance deductible for comprehensive and collision coverage. This deductible is applicable to the first dollars policy loss. The insurer is able to condition renewal on the customer accepting the higher deductible. This law will impose a limit on just how high that deductible at renewal can be. In 1991 the legislature changed the statute allowing insurers to condition renewal on the insured by accepting a deductible of up to \$150 comprehensive or \$300 on collision. This was the first time that the two kinds of coverage were separately addressed in Idaho Code. This bill will adjust the limitations to the 2012 pricing, increasing the comprehensive deductible from \$150 to \$250 and increasing the collision and physical damage coverage from \$300 to \$500.

Ms. Darrington stated that the US Bureau of Labor and Statistics, Consumer Price Index Chart, (CPI) uses a base of 100 which are average prices from 1992 to 1984. At the end of 1991 the CPI was \$136.2; in November 2011 the CPI was at \$226.2. What cost \$1.32 in 1991 costs \$2.26 today. The changes in this bill will allow the deductible limitations to keep up with the average increase in consumer prices.

The ability to accurately price the cost of insurance to the represented results in

a fair cost of insurance to anyone being insured. When an insurer cannot end its relationship at the end of a policy period with a customer who has demonstrated claims history of higher rate risk of loss, other policyholders of that insurer are required to subsidize that insurer's costs. The cost of that insurer being required to offer to renew that high risk customer's policy, therefore, having to spread that higher cost through the pool of all of the insured. Raising the deductible limit as proposed in **S1268** to a reasonable level will mean that the high risk customer bears a greater share of the cost to the loss out of their pocket. This will mean a lower indemnity payment, by the insurer, and a lower frequency of reported losses. As losses for damage less than the deductible amount will not be submitted as a claim.

Senator Tippets asked is Idaho the only state, that **Ms. Darrington** is aware of, that puts a cap on the maximum deductible that an insurer can charge an insured at renewal? **Ms. Darrington** replied that is correct. **Senator Tippets** asked under current law the insurer is not allowed to cancel the policy of someone who has a high rate of insurance claims, their only option would be to move them to a higher deductible? **Ms. Darrington** stated that there is a threshold. The insured would have to have several claims that were severe to not be considered for renewal.

Senator Tippets asked how does the ability to increase rates factor into the issue? In the present legislation there is a cap on the deductible rate, is there also a cap on how much an insurer can charge for a policy? **Mr. Deal, Department of Insurance**, stated that there is not a cap on rates. There are different tiers that administer the rates. Once an individual has an accident the rate would go up because they are losing that discount. The \$250 and \$300 is a common deductible chosen by most individuals today.

Senator Cameron said how does it benefit the consumer to retain these caps in statute? **Mr. Deal** stated the caps are in statute to protect the consumer from cancellation of their policy. The consumer deductible levels are a form of protection if they have a collision. Before this legislation was in place it was very common for an insurance company to raise the deductible to \$1,000 and many individuals could not afford this amount.

MOTION:

Senator Goedde moved, seconded by **Senator Cameron**, to send **S1268** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:18 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 14, 2012

SUBJECT	DESCRIPTION	PRESENTER
PAGE	Page Presentation & Thank You	
MINUTE APPROVAL:		
GUBERNATORIAL APPOINTMENT To Be Heard	Appointment of Jeff Sayer as Director of the Department of Commerce to serve a term commencing October 3, 2011 and serving at the pleasure of the Governor	
HCR31	Rejecting Rule Docket Relating Use of National Electrical Code	Representative Black
H418	Relating to PERSI Revising a Definition	Representative Lake

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

Carol Deis
Room: WW46
Phone: (208) 332-1333
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 14, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:33 p.m.

PAGE PRESENTATION: **Chairman Andreason** graduated the Committee's page **Brian Kreis** from the page program and thanked him for his dedicated service to the Committee.

MINUTE APPROVAL **Senator Schmidt** moved, seconded by **Senator Stennett**, to approve the minutes of February 7, 2012. The motion carried by **Voice Vote**.

GUBERNATORIAL APPOINTMENT TO BE HEARD **Chairman Andreason** introduced **Jeff Sayer**, the Governor's appointment for the Director of the Department of Commerce to serve a term commencing October 3, 2011 and serving at the pleasure of the Governor. **Jeff Sayer** advised that he started his career as a CPA with Ernst & Young in Silicon Valley (California) at the height of one of the main technology booms that our country has ever seen. The firm was one of the top five offices worldwide and all of the major technology clients were their clients. This was a phenomenal career experience. **Mr. Sayer** moved back to Salt Lake in the late 1980s. Seven years ago **Mr. Sayer** moved to Idaho to help with a venture hospital project in Idaho Falls. He helped grow this 20 bed physician owned hospital into a much larger facility, which grew revenues well over 400%. At this juncture **Mr. Sayer** left the position and knew he wanted to get involved in Idaho's economy.

Mr. Sayer accepted this gubernatorial appointment because he loves Idaho and believes that the state has unlimited opportunities. Idaho has many assets that are not on paper and one of the most important is the fact that the state is small enough that they can have a consensus, talk about issues, and find the right solutions. The state has nothing but an upside and a great future ahead.

Senator Smyser asked **Mr. Sayer** what he considered was the biggest asset he would bring to this position. **Mr. Sayer** replied the pace that they have set for the Department of Commerce. The standard that they have set for the Department is to run at the speed of business. To make sure that they are engaged with the businesses across the state. That they are eating, drinking, and sleeping the world they live in, the way they look at the world, and the needs that they have.

Senator Cameron stated that **Mr. Sayer** has a very proactive vision for the Department of Commerce and for the state. He requested **Mr. Sayer** to share with the Committee his vision of the Department of Commerce, the direction he perceives it going, and the realignment they are working on. **Mr. Sayer** reported in their analysis there were some objectives that needed to be considered. They have reduced their staff in an effort to try to move and shift resources into a more strategic outlooks.

They are getting their team out in front of the state, businesses, and communities that could use a little extra help. Their intent is to engage in, be a resource, and a champion for communities and businesses. They have identified three objectives: 1) Protect and retain the existing businesses making sure that our own companies do not get pulled away from the state; 2) Commitment to make sure that existing businesses grow. The fastest source of new jobs is going to come from our own backyard and helping existing companies grow stronger; and 3) Recruiting new businesses. Improve the process of the presentation of the state to the outside world. How fast the Department responds and how can they help communities all across the state participate in that process so everyone has an equal chance of recruiting a business. The standard again is that their Department is truly devoted to making sure that they are running as fast as business. They want businesses to know that the Department is looking at the world the same way, thinking about their needs, and making the same hard decisions that they have to make every day.

Mr. Sayer spoke to the realignment of the grant program. In the analysis of the Department they found it had fallen into a rut where they were deploying a fair amount of grant money to only those grants that qualified or had the best application of monies that would come through the doors. Instead of simply allowing communities to apply for the grants and then selecting the very best and take the grant monies and divide it up to those grants that qualify. The Department's change is to go out across the state and ask the communities to let the Department know what projects are coming, what they are working on, and how they can be involved. The Department will assist in looking for grant money and help those communities submit and qualify for the monies. The intent of their involvement is to make sure they take the limited funds that are available and disperse those strategically and as widely as they can across the state. The Department got on the phone last week and called all of the communities they work with and asked them what they were working on, what they saw coming, and how they could assist them to accomplish their grant processing. The communities came back with a list of 90 projects.

In the past, the Department would have handed out at most five or six grants each year. Their intent is to turn this around and hand out as many as they can and get them into the communities that can truly use them. The Department is going to start asking the question when the grants come into the communities, "do you really need this maximum amount?" The intent of their grant program will be to give the communities exactly what they need and keep some of the monies in the coffers so there is enough money for another grant. Carefully deploying the monies to spread the dollars around to help more communities find access to the funds.

HCR31

Rejecting Rule Docket Relating Use of National Electrical Code. The Committee chose not to hear **HCR31** because this rule rejection had passed the Senate under **SCR118**.

H418

Relating to PERSI Revising a Definition. Representative Lake stated this bill instructs Public Employee Retirement System of Idaho (PERSI) to not include travel reimbursements when they calculate salary for the purposes of PERSI benefits. This became an issue last summer when an investigative reporter pointed out that local legislators were receiving their travel expense reimbursements and they were being included into PERSI as salary. This legislation is not retroactive. **Senator Cameron** asked the definition of salary as it applied in Section 31 is for the calculation of benefit or the calculation of contribution or is it both? **Representative Lake** clarified the calculation on salary is for the benefit. **Senator Cameron** said how will this bill affect those legislators, who in the past, had their per diem included as part of their salary by PERSI? They would have paid a contribution for a benefit that they no longer will be able to claim. **Representative Lake** replied that if a legislator would leave service now, their highest months of pay, would be used for the calculation of their retirement dollars. **Senator Cameron** stated when you retire, PERSI will calculate your highest 42 months assuming your highest 42 months included the per diem in the salary calculation. Would PERSI be required under this legislation to pay benefits based on the salary that included per diem or would they not pay the benefits with per diem included? **Representative Lake** stated that PERSI would include the per diem because that would be the highest 42 months of service.

President Pro Tempore Brent Hill stated that he was testifying on this bill for purposes of full disclosure. The Committee should make their decision based on all of the information available for this legislation. In normal circumstances taxable compensation is what is used to calculate pension contributions. Because of the district government plan they can define what portion of compensation they want to use for calculating the pension benefit. If this were a private corporate plan, it would include all taxable compensation in that calculation. Travel reimbursement during the legislative session, per diem and travel back and forth between residence and the capitol are taxable if you live within 50 miles of the capitol. If a legislator lives beyond 50 miles of the capitol and they travel home on the weekend they will get travel and per diem tax free.

MOTION:

Senator Goedde moved, seconded by **Senator Cameron**, to send H418 to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:03 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 16, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT To Be Voted On	Appointment of Jeff Sayer as Director of the Department of Commerce to serve a term commencing October 3, 2011 and serving at the pleasure of the Governor	
S1307	Relating to Secured Transactions	Mike Brassey, representing Uniform Law Commission
H374	Relating to Engineers and Surveyors	Dave Curtis, P.E., Executive Director
H375	Relating to Plats and Vacations	Dave Curtis, P.E., Executive Director
S1306	Relating to the Directory of new Hires	Bob Fick, Communication Manager
S1308	Relating to PERSI Sick Leave for Teachers	Senator Smyser

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

Carol Deis
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 16, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:37 p.m.

GUBERNATORIAL APPOINTMENT TO BE VOTED ON Appointment of **Jeff Sayer** as Director of the Department of Commerce to serve a term commencing October 3, 2011 and serving at the pleasure of the Governor.

MOTION: **Senator Tippets** moved, seconded by **Senator Smyser**, to send the gubernatorial appointment of **Jeff Sayer** as the Director of the Department of Commerce to the floor with a recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

S1307 **Relating to Secured Transactions. Mike Brassey, representing Uniform Law Commission** advised this legislation speaks to the security interest in personal property. This does not deal with security interest in real property. This bill deals with a "profession of security interest" a form is filed with the Secretary of State giving notice to the public that there is a security interest. The significance of this filing is: 1) The first person who files a properly executed (UCC Financing Statement 1 Form) that person will have priority to that collateral; 2) If several creditors have a claim against the same collateral, the first to file is first in right; and 3) Release of the security interest or the foreclosure of the security interest because the debtor has defaulted. This bill does not deal with the release or foreclosure, it is primarily concerned with the process of perfecting a security interest.

Five of the sections that are being amended are to conform to other amendments so that they match other sections that are being amended. Four sections make technical corrections. Two sections are the transition provisions and the effective date. The effective date of the statute is set to be 2013 to allow all states to have ample time to adopt all of the changes. This is important to creditors who operate interstate so there is conformity state by state.

The five sections that have amendments are: 1) Section 28-9-316, on page 15, if a debtor moves collateral to another state or merges with someone else the creditor will maintain the priority position so long as within four months they make the changes necessary to conform to any necessary changes in the new state. If an Idaho company merges with a company in another state, such as the state of Washington. The debtor will be in Washington and the creditor will have the same four months to comply with the Washington law;

2) Section 28-9-503, on page 22, deals with problems that creditors have had historically in identifying correctly who is the debtor. Example: Bankruptcy case the debtor's name was Andrew Fuell. The UCC filing had the name Andrew Fuel. The Bankruptcy Court threw out the security interest and the debt became unsecured. This legislation deals with individual debtors it states that a creditor can rely on a validly issued drivers license or state I.D. first for the debtor's name. If the creditor uses the name on the drivers license or state I.D., their claim is correct no matter what the debtor does with their name. The assumption is the validity of the officially issued document; 3) Section 28-9-503, on page 24, if the creditor finds out that the debtors name has been changed on the driver's license, the creditor has four months to amend the filed financing statement with the updated name of the debtor; 4) Section 28-9-516, page 26, the name provided as the name of the debtor is the name of an individual or an organization; and 5) Section 28-9-518, on page 28, this section concerns the ability of a person to file with the Secretary of State a statement saying a security interest filed with the Secretary of State is inaccurate. This clarifies that it is an information filing and not a filing that changes the nature of security interest.

MOTION:

Senator Schmidt moved, seconded by **Senator Cameron**, to send **S1307** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Davis** will sponsor **S1307** on the floor.

H374

Relating to Engineers and Surveyors. Dave Curtis, P.E., Executive Director, Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, stated this bill will accomplish three objectives. The first is to restrict assignment to examinations for INITIAL licensure or certification examinations to residents of Idaho or students at Idaho universities. Exceptions to this residency requirement would be for military personnel stationed in Idaho on military orders and for persons employed full-time in Idaho. The Board would like to see this restriction because they have reason to believe that residents of other states and countries have attempted to register for the examinations we administer. The reason being they do not qualify for assignment to the exams in their own states or countries of residence. The Board believes that their purpose in seeking certification or licensure here is either for prestige or to try to use that as leverage for similar privileges in their resident location. This bill will prevent this activity through suggested changes to the first paragraph of Section 54-1212, *Idaho Code*, on Page 1, at Lines 27-31. The second objective is to give the Board the authority to postpone action on an application from an applicant against whom disciplinary charges are unresolved in another jurisdiction. The Board is reluctant to issue a license to a person against whom disciplinary action may be taken in another jurisdiction without knowing the disposition of the charges. We have suggested changes to Section 54-1212, *Idaho Code*, on Page 3, at Lines 36-38 and on Page 5, at Lines 1-3. Similarly, the Board needs the authority to postpone release of scores to candidates on an examination, if there is any unresolved examination irregularity involving the applicant. We have suggested changes to Section 54-1212, *Idaho Code*, on Page 3, at Lines 38-43 to accomplish this. The third objective is to modify our application process to allow applications to be made digitally. In order to do this we need to remove the requirement that applications be made "under oath." Veracity of statements will be assured through the application process. We have suggested changes to the first paragraph of Section 54-1213, *Idaho Code*, on Page 3, at Line 49 to accomplish this.

MOTION:

Senator Tippetts moved, seconded by **Senator Smyser** to send **H374** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will sponsor **H374** on the floor.

H375

Relating to Plats and Vacations. **Dave Curtis** said under current law a subdivision can be platted with only the exterior boundary monuments placed, leaving the interior monuments to be placed at a later time. This allows the property owner, for example, to take a final crop off the land, before the land is developed, without the problem of disturbing the interior land survey monuments.

If a developer chooses to go this route, the current law provides for bonding or a cash deposit to the governing body of the city or county to assure that the interior monuments will be set by a time certain. In the event the professional land surveyor who set the exterior monuments is for any reason not available to set the interior monuments at a later date, the current law requires that the city or county collect on the bond or cash deposit. Then the County Surveyor or a contract surveyor would be responsible for placing the interior monuments and be paid from the proceeds of the bond or the cash deposit. The amendments in **H375** would allow a substitute surveyor, employed by the same business entity as the original surveyor, to take over responsible charge of the work. They would place the interior monuments without the requirement of the city or county's collection on the bond or cash deposit. This will allow continuity of the project without the need to involve a surveyor who may not be familiar with the subdivision. In the event a substitute land surveyor places the interior monuments, he or she will be required to file a Record of Survey to show which monuments were set by which professional land surveyor.

MOTION:

Senator Smyser moved, seconded by **Vice Chairman Malloy**, to send **H375** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will sponsor **H375** on the floor.

S1306

Relating to Directory of New Hires. **Bob Fick, Department of Labor, Communication Manager**, advised that this legislation will impose a \$25 fine on employers who fail to comply with new hire reporting. The law requires that all new hires be reported to the Department of Labor within 20 days of their commencement of work. The fine would be capped at \$5,000 per quarter, that would be 200 violations per employer per quarter. The U.S. Department of Labor and Idaho Department of Labor have determined that this is the best chance they have against unemployment insurance benefit collection fraud. The Department cross checks daily between the new hire reports and the unemployment insurance roster to identify individuals who might have gone back to work, but are still collecting benefits. If the Department is unable to identify these individuals from the new hire reports, the new hires will show up on the employers quarterly report. This could be four or five months past the time that these individuals have started working and these benefit overpayments are often very difficult to recover.

Mr. Fick stated that they have contacted all employers every year concerning their responsibilities under the new hire law. Every new business that opens receives a packet of information from the Department. If this bill should pass, the Department plans an education campaign this spring through seminars and flyers. **Senator Cameron** asked why can't the Department do an enhanced education program without the penalty. Is the penalty necessary in order to get the employers to comply? **Mr. Fick** stated the Department has been doing education outreach in various forms for the last 14 years and it has had the effect of getting 30% of the employers to comply. The other 70% have not complied despite annual reminders and other efforts. The Department believes that the \$25 fine will finally get the attention of the other 70%.

Senator Tippetts asked does the Department of Labor believe that this is the best option for this compliance or are there others? **Mr. Fick** responded that there are several employees at the Compliance Bureau who spend time at the end of each quarter cross checking the 600,000 employees against the new hire register to make sure they are not continuing to collect benefits. Right now the Department has \$34M worth of overpayment outstanding as the result of the recession and the problems it has created for individuals to be able to pay back. Under Idaho law if you have an overpayment of unemployment benefits you cannot collect benefits until the overpayment is satisfied.

Pam Eaton, representing Idaho Lodging and Restaurant Association and Idaho Retailer Association, stated when they went to their members concerning this legislation the members were in support of giving the Department of Labor the tools to fight fraud. The dual payments and the money that is taken out of the system causes increased taxes to other complying businesses.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to send **S1306** to the floor with a do pass recommendation. **Chairman Andreason** called for a **Roll Call Vote** for **Senator Goedde's** motion. **Chairman Andreason, Vice Chairman Molloy, Senator Cameron, Senator Smyser, Senator Tippetts, Senator Johnson** voted nay. **Senator Goedde, Senator Stennett, Senator Schmidt** voted aye. The motion failed.

S1308

Relating to PERSI Sick Leave for Teachers. **Senator Smyser** stated this legislation amends Section 33-1217, *Idaho Code*, which is the accumulation of unused sick leave. It provides a safety net for educators who have been subject to Reduction in Force. Under the current code, an individual who terminates employment with their school district must secure employment in another district or with another state education agency within one year or they will lose their accumulated sick leave.

Sick leave is an important factor for retirement, as it is used to calculate their credit toward the purchase of retiree health insurance. This legislation would allow an education employee who has lost their job due to a Reduction in Force up to three years to find new employment without risk of losing accumulated sick leave.

MOTION:

Senator Cameron moved, seconded by **Senator Stennett**, to send **S1308** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

MOTION:

Senator Johnson moved, seconded by **Senator Stennett**, to approve the minutes of February 9, 2012. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:47 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 21, 2012

SUBJECT	DESCRIPTION	PRESENTER
<u>H407</u>	Relating to the Division of Building Safety Idaho Building Code Board	Steve Keys, Deputy Director
<u>H408</u>	Relating to the Idaho Electrical Board Presiding Officials of the Board	Steve Keys, Deputy Director
<u>H409</u>	Relating to the Division of Building Safety Revising Idaho Building Code	Steve Keys, Deputy Director
<u>H469</u>	Relating to Conveyances in Buildings	Representative Guthrie

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 21, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:34 p.m.

H407 **Relating to the Division of Building Safety, Idaho Building Code Board. Steve Keys, Deputy Director**, stated this legislation recognizes and accommodates the reorganization of the operating structure of the Division of Building Safety. In Section 1, it modifies the provisions of Section 39-4115, *Idaho Code*, replacing the language designating a bureau chief as the executive director of the Idaho Building Code Board, and instead stipulating that the Division will designate a nonclassified employee to serve in that role. In Section 2, the reference to bureau chiefs as designated nonclassified employees is changed to regional managers, reflecting the revised organizational structure of the agency. **Senator Smyser** asked what is the purpose of the change? **Mr. Keys** responded that it is to recognize that the Division has changed from an insulated organization to more of a regional organization. **Senator Stennett** said what benefit will this regional organization shift allow the Division? **Mr. Keys** replied the Division used to have electrical, plumbing, HVAC, building, public works within the Division and each of these bureaus operated as an individual entity. Under the reorganization there will be a common structure which will have regional managers. The intent of the regional managers, in the offices of Pocatello, Meridian and Coeur D'Alene, will be that they are in the communities they serve and will better understand their needs.

MOTION: **Senator Smyser** moved, seconded by **Vice Chairman McKague**, to send **H407** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Smyser** will be the sponsor of the bill.

H408 **Relating to the Idaho Electrical Board, Presiding Officials of the Board. Steve Keys** advised this bill adds a statutory provision requiring the members of the Idaho Electrical Board to elect a vice chairman in addition to the previously required chairman. The intent is that the vice chairman will be able to act as chairman when the chairman is not available. Present law stipulates that the board will elect a temporary acting chairman when the chairman is not able to attend a meeting. The election of the vice chairman simplifies the process and allows the vice chairman to be better prepared to conduct the meeting.

MOTION: **Senator Schmidt** moved, seconded by **Senator Stennett**, to send **H408** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Schmidt** will be the sponsor of the bill.

H409

Relating to the Division of Building Safety, Revising Idaho Building Code. **Steve Keys** said this legislation by the Building Code Board and the Public Works Contractor Licensing Board changes the basis of their remuneration for attendance at meetings from a \$50/day salary to a \$50/day honorarium. The change addresses an issue where PERSI participation has restricted board members ability to participate in individual retirement programs. This has resulted in unanticipated tax liability for some board members when contributions to retirement accounts were disallowed.

MOTION:

Senator Smyser moved, seconded by **Senator Schmidt**, to send **H409** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Smyser** will be the sponsor of the bill.

H469

Relating to Conveyances in Buildings. **Senator Davis** stated a company in Pocatello owns a building that was constructed before 1919 and it has an older elevator. The legislature adopted a bill that imposed a standard for elevators that will force the company to spend approximately \$50,000 to comply with the new code change. **HB469** effectively grandfathers in old elevators that existed before 2004. This legislation does not exempt building owners from having to have safe elevators, and they must operate and maintain them under the code standards that existed in 2004. **HB469**, Section 39-8614(3), *Idaho Code*, under item (1) stipulates that safety feature alterations to conveyances erected before 2004 be capped. The total cost of the modification is less than \$5,000. The conveyances are still required to have maintenance and safety inspections and make the necessary maintenance repairs and along with other modifications up to \$5,000 cap. **Senator Davis** directed the Committee to turn to the Merrill and Merrill letter under item 4 (Attachment 1). This letter explains that they worked in good faith with the Division of Building Safety to craft language that the Division could support. Also, Mr. Keys is quoted from an e-mail that the Division of Building Safety is able to support the language in **H469**. **Senator Smyser** asked **Mr. Keys, Deputy Director, Division of Building Safety**, if the Division was in support of this legislation? **Mr. Keys** stated that the Division of Building Safety would not take a position on this bill. **Senator Schmidt** asking for clarification that if this bill is enacted, it will be grandfathering elevators that had been built before 2004? **Senator Davis** stated that elevators that were installed prior to 2004 would be held to the code standard that existed in 2004. If there are repairs that can be achieved under the new elevator act below the \$5,000 threshold or less, the companies are still held to that standard.

Romeo Gervais, Chief Fire Marshal of Boise Fire, stated that one of the troubling pieces of the legislation with the new language is the potential of removing the ability for fire service installation in older elevators. Firefighter services are done in two phases: 1) Recall and secure the elevator to the base floor to prevent individuals from using the elevator in an emergency and gives the firefighters the ability to keep the building secured for fire fighting use; and 2) Keep control of the elevators and stage equipment several floors below. Elevators become important for the firefighters in higher buildings. A potential amendment to this legislation would be to include some language that ties the requirements to the height of a building such as a five or six story building. This would still draw some lines and would allow some provisions for higher buildings. Providing the needed safety features that the fire department would need; but allowing smaller buildings to be exempted.

Miguel Legarreta, representing Idaho Association of Realtors, advised that their Association is in support of this legislation. The bill does maintain safety while allowing for redevelopment to occur. The realty industry is seeing signs of recovery, but still struggling. Code upgrades can be very costly and will add to a burdened of a recovering industry. There are expensive costs associated with upgrades and in some circumstances it becomes less expensive to tear a building down then it is to maintain the buildings history and identity in the community.

Pam Eaton, representing, Idaho Retailers Association and Lodging and Restaurant Association, stated their Associations supported **H469**. The majority of the retail stores and hotels already comply with the safety codes. There are some smaller towns that have smaller buildings where this legislation will be a benefit. Upgrades can be an economic hardship on smaller communities restaurants and retailers.

MOTION: **Senator Smyser** moved, seconded by **Vice Chairman McKague**, to send **H469** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Davis** will be the sponsor of the bill.

There being no further business, the meeting adjourned at 2:00 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 28, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT TO BE HEARD	Appointment of J. Kirk Sullivan to the Public Employee Retirement System of Idaho Board to serve a term commencing July 1, 2011 and expiring July 1, 2016.	
MINUTES APPROVAL	February 14, 2012 February 16, 2012 February 21, 2012	Senator Smyser Senator Tippetts Senator Stennett
<u>RS21336</u>	Relating to Directory of New Hires	Bob Fick, Communication Manager
<u>H466</u>	Relating to Plumbing and Plumbers	Steve Keys, Deputy Director
<u>H467</u>	Relating to Heating, Ventilation and Air Conditioning Contractors	Steve Keys, Deputy Director
<u>H468</u>	Relating to Mobile and Manufactured Homes	Steve Keys, Deputy Director
<u>H419</u>	Relating to the Board of Real Estate Appraisers	Roger Hale, General Counsel

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

COMMITTEE MEMBERS

Chairman Andreason	Sen Tippetts
Vice Chairman Malloy(McKague)	Sen Johnson
Sen Cameron	Sen Stennett
Sen Goedde	Sen Schmidt
Sen Smyser	

COMMITTEE SECRETARY

Carol Deis
Room: WW46
Phone: (208) 332-1333
email: cdeis@senate.idaho.gov

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 28, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:31 p.m.

GUBERNATORIAL APPOINTMENT TO BE HEARD **Chairman Andreason** introduced **J. Kirk Sullivan**, the Governor's reappointment to the Public Employee Retirement System of Idaho Board (PERSI) to serve a term commencing July 1, 2011 and expiring July 1, 2016. **Mr. Sullivan** advised he was first appointed to the PERSI Board in 1996 and his service time on the Board has been very rewarding as the system grew to what it is today. The PERSI fund has grown to \$418M, is 88% funded, and there are 11,000 participants. The Board seeks to educate the next generation concerning retirement funds. Preparing them at the age of forty or younger to recognize the amount of money they will need to fund their retirement.

Senator Smyser asked for one of **Mr. Sullivan's** biggest achievements in his contribution to the Board over the years. **Mr. Sullivan** replied that it would be his ability to be teachable. His background was in engineering, but he was willing to learn how to manage an investment system so he could be an asset as a contributor to the PERSI Board.

MINUTES APPROVAL February 14, 2012
February 16, 2012
February 21, 2012

MOTION: **Senator Smyser** moved, seconded by **Senator Tippetts**, to approve the minutes of February 14, 2012. The motion carried by **Voice Vote**.

MOTION: **Senator Tippetts** moved, seconded by **Senator Smyser**, to approve the minutes of February 16, 2012. The motion carried by **Voice Vote**.

MOTION: **Senator Stennett** moved, seconded by **Senator Goedde**, to approve the minutes of February 21, 2012. The motion carried by **Voice Vote**.

RS21336 **Relating to the Directory of New Hires.** **Bob Fick, Communication Manager, Idaho Department of Labor**, stated that **RS21336** is a revision of **S1306** which was presented earlier this month. The bill proposed a \$25 penalty on all employers who failed to comply with the New Hire Reporting Law, which requires that all new hires must be reported to the Department of Labor within twenty days of their hire date. **RS21336** requires that the Department send a warning notice to employers who fail to report their new hires. The notification will state that the next time they hire an employee and fail to report them they will be subject to a \$25 fine. The bill also cuts the maximum penalty cap per quarter for the employer from \$5,000 to \$2,500. Thirty-three other states have penalty legislation including Washington, Oregon, and Utah.

MOTION: **Senator Goedde** moved for unanimous consent that the Committee agree to ask a privileged committee to print **RS21336**. **Chairman Andreason** asked if there were any objections to the unanimous consent. There were no objections. **RS21336** will be sent to a privileged committee to be printed.

H466 **Relating to Plumbing and Plumbers.** **Steve Keys, Deputy Director, Department of Building Safety**, advised that this legislation would adopt the Idaho State Plumbing Code (ISPC) as the minimum requirement for plumbing installations in Idaho. The core of this bill is the same as that reviewed last year by this Committee, but does incorporate revisions necessary to gain the endorsement of the Association of Idaho Cities, the Idaho Association of Building Officials, and hopefully, this committee. The most significant change is deleting the language relating to amendments to the code from the body of the code. The amendments continue to be reflected in the administrative rules, which are included along with the governing statutory provisions as addenda to the ISPC. The Idaho State Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO) will be available for viewing via the Department of Building Safety (DBS) website, at no charge to the public. Copies of the code in either digital or printed format will be available for \$64.00/\$80.00 in digital format, and \$112/\$140 in a 3-ring binder. The lower prices reflect membership discounts for IAPMO members. **Senator Cameron** asked for clarification of the fiscal note sentence which states "the Division should initially be slightly negative due to the purchase of new code books for its inspectors." **Mr. Keys** replied that initially there will be additional cost to the state for the purchase of new materials. In the long term there will be no adoption of new codes and purchasing of those materials. **Senator Cameron** asked what will be the cost initially? **Mr. Keys** stated that the impact limited to the State of Idaho will be between \$3,000 to \$5,000.

Leon Duce, representing the Association of Idaho Cities stated that the Association of Idaho Cities has voted in support of H466. **Kenny Calkins, representing the Treasure Valley Master Plumbers Association and the Plumbing and Heating Contractors Association** spoke in support of H466.

MOTION: **Senator Tippetts** moved, seconded by **Senator Cameron**, to send **H466** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

H467 **Relating to Heating, Ventilation and Air Conditioning Contractors.** **Steve Keys** said this legislation is brought forward from the Heating, Ventilation and Air Conditioning (HVAC) Board, and seeks to clarify the Legislature's intent relative to the regulation of the installation of solid-fuel burning appliances such as wood stoves and factory built fireplaces. Pellet stoves fall within the definition of solid-fuel burning appliances. The bill modifies the definition of a heating, ventilation and air conditioning contractor by changing the term "solid-fuel burning furnaces" to "solid-fuel burning appliances". The board believes that the installation of solid-fuel stoves and factory-built fireplaces is a legitimate public safety concern, and should be included in the HVAC program. Currently, the Division is permitting and inspecting the installation of solid-fuel burning stoves listed under Underwriters Laboratory (UL) standard UL737. Factory built fireplaces listed under UL standard UL 127 are not currently included in our inspection and permitting process, because they do not fall within sections 5 and 6 of the International Residential Code, which is the code basis for HVAC installations in one and two family residences. Should this legislation be approved, one would anticipate that the HVAC Board would initiate follow-up legislation to adopt the references to factory-built fireplaces contained in Chapter 10 of the International Residential Code.

MOTION: **Senator Schmidt** moved, seconded by **Senator Goedde**, to send **H467** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

H468

Relating to Mobile and Manufactured Homes. **Steve Keys** explained in 2000, Congress passed legislation requiring that all installations of new manufactured homes be inspected. The requirement was driven by widespread recognition that inadequate and/or improper installation was the leading cause of complaints from owners of manufactured homes. What you have before you today is the result of that process begun by Congress in 2000. The US Department of Housing and Urban Development spent years developing the regulations outlining the requirements for the installations, and then gave State Administrative Agencies (SAA's) the opportunity to decide if the state wanted to conduct its own inspection program or to defer to Housing and Urban Development (HUD). At the behest of the manufactured housing industry in Idaho, the Division of Building Safety accepted responsibility for assuring these mandatory inspections are conducted. Rather than developing a completely new delivery methodology, DBS is working with local jurisdictions to leverage their existing programs in meeting the federal requirement. The primary changes to current practice in Idaho contained in this bill are: 1) DBS is responsible to HUD for assuring that all installations of new manufactured homes are properly installed; 2) The \$50 installation tag requirement will enable DBS to track the locations of all new installations per the HUD requirement, and will also produce revenue necessary to facilitate training of inspectors and to support quality assurance activities required of DBS; and, 3) DBS will issue permits and conduct inspections of new manufactured home installations in those areas of the state not covered under other inspection programs. The authority of local jurisdictions to conduct inspections of new manufactured home installations stems from DBS's authority granted by HUD. DBS must assure that local efforts are conducted properly.

Senator Cameron asked has DBS developed a fee schedule and what might the Division generate and expend on this program. **Mr. Keys** stated that they believe the fees will range from \$200 to \$400 depending on the size of the units. The Division anticipates the fee schedule will generate just enough funding to support the Division's costs.

Jack Lyman, representing Idaho Housing Alliance, spoke in support of **H468**. The Alliance anticipates there will be approximately 200 new homes placed and subject to this legislation on an annual basis. The Alliance will be involved in the negotiated rulemaking fee process and will make sure the fee is set at a sufficient amount to sponsor an adequate program. The Alliance is concerned that if the installation program is not run by the state, then HUD will require federal inspections of the units. The federal inspection program would be significantly higher than if the program was run by the state.

Kate Haas, representing Idaho Association of Building Officials, spoke in support of the legislation.

MOTION:

Senator Smyser moved, seconded by **Senator Johnson**, to send **H468** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

H419

Relating to the Board of Real Estate Appraisers. Roger Hales, General Counsel, explained there are two changes to this legislation: 1) Adds an additional grounds in the Board's disciplinary actions and 2) Strikes the word reciprocity in the "out of state section." The addition of the disciplinary ground in regards to a violation of Board order is based upon a recent supreme court case. The supreme court judged that the Board could not further discipline a licensee who violated a Board order unless violation of the Board order was listed as a ground for discipline within the Board's Act. As they amend the Board Act they are adding "failing to comply with a board order entered in a disciplinary matter." This will allow the Board authority to enforce their own order.

The Board is revising language in its enforcement section and reciprocity is being deleted to allow the Board to license any out of state real estate appraiser who meets Idaho's requirements; irrespective of an agreement between Idaho and that state.

Senator Goedde stated that the statement of purpose refers to term endorsement but that term is not found in the language of the bill. **Mr. Hales** explained when the Board licenses out of state appraisers they think about two models: 1) reciprocity model where the Board would have to have an actual agreement between the states; and 2) Endorsement model allows an appraiser who meets Idaho's requirements they may be licenses irrespective of that contract. **Senator Goedde** requested that the legislation be reworded so that the term endorsement is included and matches the statement of purpose.

MOTION:

Senator Johnson moved, seconded by **Senator Schmidt**, to send **H419** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:10 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, March 01, 2012

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT To Be Voted On	Appointment of J. Kirk Sullivan to the Public Employee Retirement System of Idaho Board to serve a term commencing July 1, 2011 and expiring July 1, 2016.	
H546	Relating to the Global Entrepreneurial Mission Grant Fund	Jeff Sayer, Director
H465	Relating to Public Works Contractors' Licenses	Steve Keys, Deputy Director
H492	Relating to the Uniform Securities Act of 2004	Marilyn Chastain, Bureau Chief

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

Carol Deis
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 01, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Smyser, Tippetts, Johnson, Stennett, and Schmidt

ABSENT/ EXCUSED: Senator Goedde

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

Chairman Andreason called the meeting to order at 1:31 p.m.

GUBERNATORIAL APPOINTMENT Appointment of **J. Kirk Sullivan** to the Public Employee Retirement System of Idaho Board to serve a term commencing July 1, 2011 and expiring July 1, 2016.

MOTION: **Senator Cameron** moved to send the gubernatorial appointment of J. Kirk Sullivan to the Public Employee Retirement System of Idaho Board to the floor with the recommendation that it be confirmed by the Senate. **Senator Schmidt** seconded the motion. The motion passed by **Voice Vote**. **Senator Andreason** will be the sponsor of the candidate.

H546 Relating to the Global Entrepreneurial Mission (IGEM) Grant Fund. **Jeff Sayer, Director, Department of Commerce**, stated the Idaho Global Entrepreneurial Network is an initiative proposed by Governor Otter in his State of the State speech. It advances the quality of our research and accelerates and facilitates the technology transfer out of the five research institutions in the state into the market place. The idea is to bring technology that has taken years and significant amounts of investment into the marketplace where it can create new companies and jobs. IGEM has been carefully designed and patterned after a number of different states that have had successful programs; such as Utah's U-star program. In looking at other state's programs we selected the best practices out of those programs and included them in IGEM.

IGEM will come funded in three different layers: 1) \$2.0M for new research at the universities; 2) \$2.0M create permanent, ongoing funding for the Center for Advanced Energy Studies (CAES); and 3) \$1.0M funding and grant monies for the Department of Commerce.

Section 1 (Page 1, Line 16): Amends Section 67-4725, *Idaho Code*, to transform the existing Idaho Innovation Fund into the Idaho Global Entrepreneurial Mission Grant Fund.

Section 2 (Page 1, Line 30): Amends Section 67-4726, *Idaho Code*, to transform the existing Idaho Innovation Council into the IGEM Council. The new wording that is added is carefully designed to make sure there is a balance of all parties, private sector and government representatives.

Section 3 (Page 2, Line 36): Outlines all of the responsibilities for the IGEM Council. The Council must establish the parameters, metrics, process and report back to the legislative body and the Governor to their progress.

- Establish rules for the grant program with special consideration to make sure these companies stay Idaho focused.
- Responsible for attracting private investment to the IGEM Program.

Section 4 (Page 3, Line 42): Allows the Department of Commerce and the State Board of Education the ability to allocate funds to Boise State University, University of Idaho and Idaho State University for research teams or individual university faculty to pursue IGEM focused projects.

Section 5 (Page 4, Line 3): New section which specifies how any commercialization revenues from research undertaken by the universities and funded by IGEM will be distributed. Allows the fund to participate in up to 5% of the commercialization revenues.

Senator Smyser stated on page 3, (i) of the bill it speaks to some of the incentives that will be provided to encourage the investments. **Mr. Sayer** explained the biggest incentive that they will be looking at is finding ways that create efficiency and expedited processes. Some of the feedback from industry is they have been reticent to get involved in some of the tech transfer processes because of the legal environment quagmire. The Department of Commerce will work with the universities to create a framework that is attractive to businesses. The Department needs to make it worthwhile for businesses to come in and deploy capital and their time. The Department will then monitor the progress of these procedures.

Senator Tippets asked **Mr. Sayer** for an example of how they envision the procedure to work? **Mr. Sayer** clarified the plan is to create a pipeline of communication from universities to industry and back. Technology can be developed in a university setting and the IGEM Board will identify the technology for a commercial opportunity. Oftentimes, when the technology transfers out of the university setting into a setting that is immature for the technology to be in the market or into a setting that does not have the skill and expertise to take the technology into a business environment the process fails. IGEM will watch for technologies as they are developed and when they reach the commercialization stage engage industry early in the process so they can help with the commercial development. As the transfer of the technology is taken into the private sector it has the appropriate management capabilities to shepherd the technology and the capital resources to support the transfer. There will be sharing in the revenues and that sharing will occur through a license agreement, royalty agreement, or a piece of equity in the new entity. The state will co-invest and it will replenish the fund for future investments.

Matt Freeman, Deputy Director, CFO of State Board of Education, spoke in support of **H546**, stating that states who choose to create partnerships between the research institutions and private industry have been equal to significantly improve their ability to attract capital expertise to industry. We have seen this in Idaho with every modern agricultural practice that has been developed through a partnership with the university extension service and private industry. They believe that IGEM strikes the right balance between support, public research and private partnerships. It is a necessary step to being competitive in the future.

Jay Larsen, President & Founder of the Idaho Technology Counsel, spoke in support of **H546**, explaining they are a private sector organization that is focused on building innovation and technology in the State of Idaho. The innovative ecosystem which is basically industry focused on agriculture, computer science, software development, energy, material science and advanced manufacturing.

They focus on access to capital, quality workforce, and governments role. IGEM's is exactly what the state needs to do in the process of looking for more opportunities to acquire research and development through private and public partnerships to create a competitive environment for Idaho. The states that do not figure the process out will continue to have a bigger chasm between a prosperous economy and in holding on to old technology. IGEM's will allow the state to build the next generation of jobs, as opposed to being an exporter into the state. The interconnect to the universities will bring a stronger economic opportunity as they are partnered into the next generation of products and services, thus creating a stable tax base.

The recent example of a partnership was between Simplot and the University of Idaho at the Parma Facility. The facility was about to close down because of lack of funding. Simplot stepped up to keep the facility open because of the agricultural research that the facility was producing that is paramount to the future products and services for their company.

Jason Ronk, Vice President of Idaho Association of Commerce & Industry, spoke in support of H546. The Association believes this legislation is a positive long-term vision for Idaho's future.

Bruce Newcomb, representing Boise State, spoke in support of H546.

Kent Kunz, Director of Government Relations for Idaho State University, spoke in support of H546, explaining a program that Idaho State University is the leader in development of accelerator technology used to produce isotopes.

Mike Reynoldson, Government Affairs Manager, Micron Technology, spoke in support of H546. Micron has a manufacturing sight in Utah and interacted with their universities and policy makers who were involved with the U-star Program. The benefit that they saw from their involvement with the program was that once the U-star Program was in place there was a strong shift in mentality. The concepts of commercialization, economic growth, along with generating revenue were priorities with the launch of their Program. Micron believes that this same shift can take place in Idaho. This legislation will create a road map for Idaho making this shift a priority in uniting universities to public and private sector in the development of business opportunities. **Senator Smyser** asked why do you think this concept will work in our state? **Mr. Reynoldson** replied with the creation of the IGEM Counsel, particularly the inclusion of the private sector, there will be a number of discussions of the direction the state should head in technology development and out of those discussions they believe a positive solution will develop.

John Eaton, representing Idaho Association of Realtors, spoke in support of H546.

Tab Roper, Vice President of TW Telecom, spoke in support of H546, stating that Idaho needs to create a top caliber research environment that will educate the workforce to draw the technology jobs to the state.

Rich Stuppy, Vice President of IT Operations for Keynetics, spoke in support of H546. Keynetics believes that it will help the university system build the skilled workforce that Idaho needs to continue to grow. The lack of software developers is a critical issue in the state. The time is right to approve this bill and help the state move forward to build a skilled workforce for the future.

Senator Johnson asked for clarification on idle funds and how they are invested. The state is somewhat limited in how they may invest idle funds because the rate

of return is poor. When the state receives grants or donations into the fund how does the Department foresee the effectual management. **Mr. Sayer** replied the idle funds will be overseen by the State's Treasurer and managed in accordance with state policy. The objective of the fund will be to deploy that capital and get it into investment opportunities that would have a chance of a higher return.

MOTION: **Senator Smyser** moved, seconded by **Senator Stennett**, to send **H546** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Cameron** will be the sponsor of the bill.

H465 Relating to Public Works Contractors' Licenses. **Steve Keys, Deputy Director, Division of Building Safety**, advised the Public Works Contractors Licensing Board brings this legislation in response to input from licensees and affected governmental entities. Many stakeholders contend that there is a significant concentration of work opportunities in the \$300,000 range, and that emerging contracting businesses are having a difficult time meeting the minimum financial and experience requirements for a "B" class license that currently is the minimum required for this level of projects. The proposal before you today expands the current Public Works Contractor classifications, by establishing a new "CC" class of license between the existing "C" and "B" classes. Currently a "C" contractor is allowed to bid on contracts up to \$200,000, while a "B" contractor is allowed to bid on contracts up to \$600,000. This legislation allows the "CC" class to bid projects up to \$400,000, and establishes minimum financial requirements of \$25,000 in working capital and \$75,000 in net worth. The applicant will be required to demonstrate he has successfully undertaken projects of at least \$280,000 to fulfill the experience requirements. The requirements for a "B" classification are \$50,000 in working capital and \$150,000 in net worth, and the applicant must demonstrate experience on projects of at least \$420,000 in value. The bill sets a maximum license fee of \$150 for the "CC" license, and moves the maximum fee for a "B" license from \$150 to \$200. Actual license fees will be set in administrative rule by the board. It is the board's belief that this move will engender additional bidder participation on projects between \$200,000 and \$400,000, while adequately protecting the public's interest by expanding the pool of qualified contractors available to perform the work.

MOTION: **Senator Schmidt** moved, seconded by **Senator Johnson**, to send **H465** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Schmidt** will be the sponsor of the bill.

H492 Relating to the Uniform Securities Act of 2004. **Gavin Gee, Director, Department of Finance**, explained this legislation does three things: 1) It makes numerous technical corrections, including citation changes and punctuation changes, and eliminating unnecessary language; 2) It provides in Sections 30-14-501 and 30-14-502 that it is unlawful for any person to engage in the securities or investment advisory business to misappropriate a client's investment funds, or to use those funds to pay other investors, unless the client has agreed to that ahead of time; a. The Uniform Securities Act is written in such a way that it makes it fairly complicated to charge someone with the outright theft of client funds. In fact, when these cases are prosecuted criminally, they are usually charged as grand theft. With this language the law would more clearly prohibit the misuse of client funds for the benefit of the adviser or broker; b. Similarly, if a person uses another client's money to perpetrate what is essentially a Ponzi scheme, that is specifically prohibited. A Ponzi scheme is an investment operation where investors' return is actually just getting their own money back or other investors' money, rather than getting a return from the investment of their money. The Department has seen a significant number of Ponzi schemes in the last several years; and 3) The final change in this legislation is found in Section 30-14-603. This amendment adds a specific statute of limitation on the Department's ability

to bring an enforcement action against a person who has violated the USA. The bill proposes three years from the date of discovery by the Department of the violation. This statute of limitation is important because many victims are lulled into being unconcerned about a fraudulent investment for a long time. This can happen because they are receiving fraudulent statements that state how well their investment is performing or they have been able to get small amounts of money back when they've asked, which is done precisely to keep the larger fraud going. This statute of limitation allows the investor to discover the fraud and report it to the Department before the statute begins to run. Moreover, it is important to have a specific statute of limitations due to a conflict among several district courts around the State on that issue.

Senator Cameron stated pursuant to rules of the Senate 39 (H), of the Idaho State Legislature, he has a conflict but still wishes to vote on **H492**.

MOTION:

Senator Cameron moved, seconded by **Senator Tippetts**, to send **H492** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will be the sponsor of the bill.

There being no further business the Committee was adjourned at 2:30 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, March 08, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	February 28, 2012	Senator Smyser
APPROVAL	March 1, 2012	Senator Johnson
RS21421C1	Relating to Certificates of Insurance	Senator Goedde
S1369	Relating to the Directory of New Hires	Bob Fick, Communication Manager
H523	Relating to Employment Security Law	Bob Fick, Communication Manager
H420	Relating to Insurance Administrators	Bill Deal, Director
H421	Relating to Orders and Notices of the Director of the Department of Insurance	Bill Deal, Director
H422	Relating to Fees and Taxes	Bill Deal, Director
H598	Relating to Public Employee Retirement System and the Blind Commission	Senator Smyser

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

Carol Deis
Room: WW46
Phone: (208) 332-1333
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 08, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:32 p.m.

MINUTES APPROVAL: February 28, 2012
March 1, 2012

MOTION: **Senator Smyser** moved, seconded by **Senator Johnson**, to approve the minutes of February 28, 2012. The motion carried by **Voice Vote**.

MOTION: **Senator Johnson** moved, seconded by **Senator Tippets**, to approve the minutes of March 1, 2012. The motion carried by **Voice Vote**.

RS21421C1 Relating to Certificates of Insurance. **Senator Goedde** explained this legislation is an effort to fix a problem in the insurance and banking industry. **Senator Goedde** requested that this legislation be sent to Judiciary and Rules for printing and then to come back to Committee for debate.

MOTION: **Senator Tippets** moved, seconded by **Senator Cameron**, to send **RS21421C1** to the Judiciary and Rules Committee with a recommendation that they print the **RS21421C1**. The motion carried by **Voice Vote**.

S1369 Relating to the Directory of New Hires. **Bob Fick, Communication Manager, Department of Labor**, stated this bill imposes a \$25 penalty per instance on employers who fail to comply with the New Hire Reporting law. This bill includes changes to address concerns of several legislators. It requires the department to issue a warning to employers who have violated the New Hire Report law advising them that the next violation will result in a \$25 fine. It also reduces the maximum fine that can be imposed on any employer to \$2,500 a quarter. The Department has started a radio campaign of ads statewide this week advising businesses about their responsibilities under the New Hire law.

MOTION: **Senator Tippets** moved, seconded by **Senator Schmidt**, to send **S1369** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippets** will be the sponsor of the bill.

H523 Relating to Employment Security Law. **Bob Fick** advised this legislation provides for a new dead line for corporate officers to withdraw from coverage under the Unemployment Insurance System. This bill builds on H80, that was passed last year, which barred corporate officers from collecting unemployment benefits. This bill allows corporate officers to opt out of the Unemployment Insurance Program so they will not pay the tax on their wages. Applications to opt out filed before July 31, 2012 would be effective retroactive to January 1, 2012.

Corporate officers that do opt out would be opted out for the entire calendar year. Those who have paid the first quarter taxes would file an amended return and be credited taxes they paid on their first quarter wages. When a corporate officer opts out it takes effect within 45 days and then they are opted out the balance of the calendar year and two subsequent calendar years.

Senator Goedde stated pursuant to Rules of the Senate 39 (H), of the Idaho State Legislature, he has a conflict but still wishes to vote on **H523**.

MOTION:

Senator Schmidt moved, seconded by **Senator Cameron**, to send **H523** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Schmidt** will be the sponsor of the bill.

H420

Relating to Insurance Administrators. **Bill Deal, Director, Department of Insurance**, said this bill is a small change in how the Department deals with Third Party Administrators (TPA). The current law states when a third party administrator applies to be registered in Idaho as the home state, the applicant must submit audited financial statements for the two most recent years and then annually submit the same requirement. The cost for a CPA audited financial statement is quite expensive. The change that is being proposed in this legislation is a hardship exemption which will allow small TPA's to provide the Department with an unaudited financial statement and a surety bond of no less than \$20,000 or 10% of the funds that would be handled. This legislation will also apply to government plans and joint employer plans.

Senator Johnson asked what is the cost of obtaining a surety bond versus a CPA audited financial statement? **Mr. Deal** explained a \$20,000 bond would cost between \$500 to \$1,000 and an audited financial statement would cost \$5,000 to \$15,000. **Senator Goedde** stated that he did not see "small" defined in the legislation, will this be subject to the Departments discretion? **Mr. Deal** said it will be at the discretion of the examiners.

Senator Schmidt asked how many TPA's will this change effect? **Mr. Deal** replied there are 269 registered TPA's in Idaho. There would be just a handful of TPA's that would fit into this category and be effected by this legislation.

MOTION:

Senator Goedde moved, seconded by **Senator Johnson**, to send **H420** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Goedde** will be the sponsor of the bill.

H421

Relating to Orders and Notices of the Director of the Department of Insurance. **Bill Deal** stated this legislation amends Section 1, Title 41-212 relating to the service of orders and notices by the Director of the Department of Insurance. This change complies with the rule that the Attorney General submitted earlier this year having to do with how orders and notices can be communicated. This changes the law to add that an order can be sent by e-mail. **Senator Tippetts** asked how do you know when to send notices regular mail or certified mail? **Mr. Deal** stated that at the Department of Insurance they continue to mail by certified mail, so there is a returned copy of the receipt.

MOTION:

Senator Johnson moved, seconded by **Senator Cameron**, to send **H421** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Johnson** will be the sponsor of the bill.

H422 Relating to Fees and Taxes. **Bill Deal** explained this bill has to do with the submission and the accounting for the fees and taxes that the Department of Insurance collects. In the current law there is need for a certified reporting requirement to the State Treasurer. When the Department was audited by the Legislative Auditors it was brought to their attention that this is an obsolete requirement because on a daily basis the Treasurer's Office is updated by an electronic record through the accounting Star System.

MOTION: **Senator Goedde** moved, seconded by **Senator Cameron**, to send **H422** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Goedde** will be the sponsor of the bill.

H598 Relating to Public Employee Retirement System and the Blind Commission. **Lieutenant Governor Little** stated the code, as written, does not allow individuals who are disabled to receive any compensation. The Blind Commission pays \$50 per meeting for their members to serve on their Commission. To serve on the Blind Commission you must be blind. The Commissions rules state you must be blind to serve on their Commission which is disabled. The Public Employee Retirement System of Idaho (PERSI) rules a person who is disabled cannot receive compensation from another source. **H598** creates a narrow avenue to allow disabled individuals to serve on a state commission and not lose their PERSI disability. **Senator Tippetts** said on page 2 of the bill the compensation that will be allowed to the members of the commission is a one-time election as to whether they are paid a wage or per diem. Why does the legislation allow the members to make that election? **Lieutenant Governor Little** answered if you are a business person you have your own 401K and the federal rules state that you cannot have both PERSI and 401K. This election is different, it is not for the purpose of complying with federal law concerning 401K and a defined benefit package that is established in PERSI. This is not to address the 401K define benefit conflict. This allows individuals to state that they are not getting any compensation, it is per diem.

MOTION: **Senator Smyser** moved, seconded by **Senator Johnson**, to send **H598** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Smyser** will be the sponsor of the bill.

There being no further business, the meeting adjourned at 1:58 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AMENDED #1 AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, March 13, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	March 8, 2012	Senator Tippetts
H549	Relating to Liens	Jeff Harvey, Secretary of State Office
H550	Relating to Business Entity Names	Jeff Harvey, Secretary of State Office
H440	Relating to Insurance Funding	Paul Leary, Department of Health & Welfare

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

Carol Deis
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 13, 2012
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt
ABSENT/ EXCUSED: Chairman Andreason

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

Senator Cameron called the meeting to order at 1:30 p.m.

MINUTES APPROVAL: March 8, 2012

MOTION: **Senator Schmidt** moved, seconded by **Senator Smyser** to approve the minutes of March 8, 2012. The motion carried by **Voice Vote**.

H549 Relating to Liens. **Jeff Harvey, Secretary of State Office**, explained liens filed by the State of Idaho transitioned to the Secretary of State Office in 1998. The need for the amendment that you have before you is best described through a scenario. Scenario: Jane Doe decides to buy a house and her credit check comes back with a lien filed in 1993. The credit agency advises Ms. Doe that she must prove this lien was taken. Ms. Doe goes to the County Recorders Office, where the liens were recorded, at that time, and they tell her they have the lien on record and that is the only information they can give concerning the lien. They can tell her that the lien was filed by the Idaho State Tax Commission. Ms. Doe goes to the State Tax Commission and they tell her they do not know whether they filed the lien. The records from that period have been destroyed. The Tax Commission is allowed under law to destroy the records after five years. However, the County Recorder does not indicate in their records by status. These liens keep turning up on individual's credit reports and the individual with the lien is having difficulty proving that it was released because there is no record of a release. Jane Doe's only recourse is to hire an attorney to do some legislative history and write a letter to prove that the lien lapsed. A lien filed for \$100, 15 years ago, could now cost several hundred dollars in legal fees to have it removed from their credit report. The amendment states in one place that any lien filed with the County Recorder by the State of Idaho before July 1, 1998 is no longer a force and effect. **Mr. Harvey** has been receiving calls from individuals who are seeking to clear up an old lien on their credit report, assuming that his office possesses these old records. If the lien is no longer of interest, it never transitioned to their office. The amendment will spell out that these old liens are no longer in affect and these individuals can show the legislation language to the credit agencies.

Senator Tippetts asked for clarification of Subsection 5. **Mr. Harvey** advised that they included Subsection 5 to clarify that if the lien was on file with the County Recorder Office and transitioned to the Secretary of State's Office it would remain in effect. This amendment refers to these prior liens and does not effect those newly recorded documents.

Senator Stennett asked why was 1998 picked as the cut-off date. **Mr. Harvey** stated the transition period was from January 1 through June 30, 1998. This was the time-frame that liens were transitioned from the County Records Office to the Secretary of State Office. July 1, 1998 is the official date that the transition of the liens, that were of interest, should have transitioned to their office.

Senator Smyser asked how many of these credit dispute cases will be referred to their office and how much time will it take their office to refer this information to people. **Mr. Harvey** stated it has become more of an issue over the last year and that is what has prompted this amendment. They have talked to between ten and twenty people directly within the last six months that have run into lien issues. If these individuals contact their office, they will now have a solution for them.

Senator Cameron asked are any of these child support liens? By giving the release of July 1, 1998 would they be saying to the other parent that they will not receive the back funds? **Mr. Harvey** replied that Health and Welfare released all of their child support liens on July 1, 1998. If you look at Subsection 3, it specifically states that "the effectiveness of a notice of state lien for child support delinquency which was recorded with the County Records Office shall lapse on July 1, 1998, unless a notice of transition is filed with the Secretary of State on or before July 1, 1998." Health and Welfare took care of the transition of files and the date. **Senator Cameron** asked are we forgoing any monies that are owed to the state with this amendment and if so, how much. **Mr. Harvey** advised the issue is not so much the fact that we are forgoing money, because we are not in this case. Under the law liens are only good for five years. The language does not directly state that and they are clarifying it in this amendment.

MOTION: **Senator Schmidt** moved, seconded by **Senator Stennett**, to send **H549** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Schmidt** will be the sponsor of the bill.

H550 Relating to Business Entity Names. **Jeff Harvey** stated in 2007 the statutes regarding limited liability for companies were changed and there was an oversight in the language which left out the wording that prohibits business organizations from taking a name that falsely states or implies government affiliation. This makes the LLC Act, in particular, non-uniform in other business entity acts. Reinstating the language will make the LLC Act uniform with the Corporation Act and some language adjustment in the limited partnership Act will complete the corrections so that all language across all three acts is uniform.

MOTION: **Senator Goedde** moved, seconded by **Senator Smyser**, to send **H550** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Goedde** will be the sponsor of the bill.

H440 Relating to Insurance Funding. **Paul Leary, Administrator, Division of Medicaid, Department of Health and Welfare**, said the purpose of this bill is to modify current code to allow available funding to be used to cover program expenditures. Three programs in the Department of Health and Welfare, Children Health Insurance Program (CHIP Plan B), Access Card, and the Small Business Health Insurance Pilot Program are funded through use of dedicated funds from the Premium Tax Fund. Current statute directs a specific percentage of the funds to each of the three programs. For state fiscal year 2012, this allocation formula will leave the children's program underfunded while excess funds for the adult program remain idle. Modifying Title 41, Insurance, Chapter 4, Fees and Taxes eliminates the need to revisit the allocation formula each year and will allow the Department to fully fund each program. The adjustment needed for state fiscal year 2012 of \$2.7M transferred from the adult program into the CHIP Plan B fund.

The Affordable Care Act creates a new eligibility category for Medicaid. On January 1, 2014 all individuals under the age of 65 and at or below 133% of the federal poverty limit will be eligible for Medicaid. The act also provides for insurance subsidies that will be available to all current recipients on the adult program that have incomes above 133% of the federal poverty limit. Their Department will be required to transition all adults to those programs. Additionally, there will be an increase in federal funding with the Children's Health Insurance Program which is part of the Social Security Act, Title 21. On October 1, 2015 there will be a decrease in the federal participation by 23% up to 100% of federal participation. What does this mean for Idaho? In Idaho our Children's Health Insurance Program is funded at a fee percent with federal dollars right now. That will not bring us up to 50% federal participation by October 2, 2015. There is no impact to the general fund. There is no change of the total amount premium tax fund used for these three Department of Health and Welfare Programs as premium tax funds available to be used for these programs are defined in the statute.

Senator Cameron asked how much is in the account for the adult program? **Mr. Leary** answered the balance is \$3,000,829,100. **Senator Cameron** asked what is the projected amount to go into the fund this year, if the law were not to change? **Mr. Leary** stated \$139,906 for 2012.

Senator Goedde said if the Committee chooses to make this code correction with or without any reference to "Obama Care", how would this change be affected. **Mr. Leary** stated the changes in 2014, which would be a part of the Affordable Care Act, if that is overturned, then these programs will have to go forward. They have made some effort through the Affordable Care Act until 2019 with that program. The Children's Health Insurance Program is authorized now up through September 30, 2015. **Senator Goedde** said the language in this bill will give the Department the authority to allocate funds as needed to the Children's Access Card or the Small Business Health Insurance Pilot Program. **Mr. Leary** stated that the language in the bill does give the Department the authority to allocate funds as needed.

Senator Cameron stated the legislation that passed originally was to help adults, small business, and children to be able to obtain health insurance. One-fourth of the premium tax was earmarked above \$55M to go toward the Access Card. It was never intended that the premium tax would go towards helping pay for CHIPS. If the Department is going to use 20% of the monies towards the adult program, perhaps the whole allocation should be reworked and the premium tax should flow back to the general fund. Then the general fund should fund the CHIPS Program appropriately. **Mr. Leary** replied the statute states that the whole CHIP Part B Program was funded through the premium tax and it was through the same part of the legislation. At the end of the day, as long as they have funding for the program and that is what they are asking for in this bill. **Senator Cameron** said if this bill were not to pass you would need this money. **Mr. Leary** stated that the Department needs this money for this fiscal year to fund the program.

MOTION:

Senator Smyser moved, seconded by **Vice Chairman McKague**, to place H440 on hold in the Committee at the call of the Chair. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:02 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, March 15, 2012

SUBJECT	DESCRIPTION	PRESENTER
H607	Relating to the Public Employee Retirement System (PERSI) Definition of Employee	Representative Stevenson
S1390	Relating to Certificates of Insurance	Senator Goedde
H645	Relating to Salaries of Members of the Public Utilities Commission	Representative Loertscher

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 15, 2012
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippetts, Johnson, and Schmidt
ABSENT/ EXCUSED: Chairman Andreason and Senator Stennett.

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

Senator Cameron convened the meeting at 1:29 p.m.

H607 Relating to the Public Employee Retirement System (PERSI) Definition of Employee. **Representative Stevenson** stated this legislation deals with Section, 59-1302, *Idaho Code*, which are the PERSI definitions. The Cemetery District asked for permission to exempt one of their part-time employees from the PERSI program. In the process, they were denied because Cemetery Districts were not listed as an entity that is authorized in the legislation. They redraft H445 to allow this change in status for part-time cemetery employees using hours worked as the criteria this would effect part-time employees at the libraries. Previously, those individuals who could be exempt were city, counties and irrigation districts. **H607** includes Cemetery Districts and Mosquito Abatement Districts in this bill. They also have deleted the term "growing season" to allow the cities to use part-time people at different times of the year other than the growing season.

Alex Kenworth, representing Idaho Association of Government Employees, stated his concern with the legislation was on page 4, line 28 through 29, the striking of the terms "and the growing season." That striking this language municipalities could broaden the implementation or affect of the bill in the event. The road and bridge department employees could have snow removal interpreted as weather and not weather in the growing season.

Senator Cameron clarified that the "growing season" should not affect any transportation crews. This section of code was put in place to help counties and cities who had golf courses or other employees who did not meet the full definition of a full-time employee, they were by nature seasonal and this is the intent of line 28 through 29.

MOTION: **Senator Smyser** moved, seconded by **Senator Tippetts** to send **H607** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Smyser** will be the sponsor of the bill.

S1390 Relating to Certificates of Insurance. **Senator Goedde** advised certificates of insurance are documents provided by insurance agents for coverage of a section of time. These insurance agents are providing contracts with old language, sighting forms that are no longer authorized for use, and making statements that are very difficult to comply with. A subcontractor is the typical signer of one of these documents covering his work. All types of problems ensue with language and forms when the time for payment arrives.

The lending institutions for contractors have problems and concerns with the certificates of insurance. In the legislation before you they have added Section 2 that deals with binders. They have made provision for the attachment of supplemental forms. A binder has a box about 1/2" deep and 4" long which contains a fair amount of information. An attached schedule for this binder will satisfy the banks and other lenders as a supplement. The lenders suggested that the provider will have 90 days for expiration that it will continue until the endorsement or policy is issued. **Senator Goedde** asked that this bill be sent to the amending order to add a few more lines to the bill.

Mike Brassey, representing the Idaho Bankers Association, stated they are in support of S1390. In most loan documents there is a requirement that the debtor insure the collateral for the loan. Information that the lender and borrower can acquire to know that the borrower has satisfied their obligation. Because of the discussions they have had with other members of the industry and a number of provisions that other states have used they have arrived at the language in this bill. The Bankers have no objection to the amendment.

Michael Kane, representing Property Casualty Insurance Association of America, said they are in support of S1390. Their Association has asked that one sentence be added to the amendment. "This section shall not apply to any Certificate of Insurance prepared and/or issued by an insurer pursuant to any Federal law or regulation, or any other law or regulation of this State, in which the specific content and form of said certificate is enumerated therein, or a certificate issued to a person or entity that has purchased coverage under a master policy."

Randy Pipal, the principle of a small insurance agency in Boise, spoke in support of S1390. **Mr. Pipal** pointed out that this was just not an insurance industry issue. The other parties involved are general contractors and bankers. It is their intention to effect the contract negotiation between a general and a sub-contractor, protecting all parties involved with a standard form that cannot be altered.

MOTION: **Senator Tippetts** moved, seconded by **Vice Chairman McKague**, that **S1390** be referred to the 14th Order for amendment. The motion carried by **Voice Vote**. **Senator Goedde** will be the sponsor of the bill.

H645 Relating to Salaries of Members of the Public Utilities Commission. **Representative Loertscher** was not available for testimony. **Senator Tippetts** stated that it was his understanding that this bill is an attempt to be consistent with the 2% pay increase that the Legislature has given the state employees. Their compensation is established by the Legislature and this bill must be passed to give them the 2% increase.

Senator Smyser asked if the salary of the commissioners has been raised in the last four years? **Senator Cameron** replied that the commissioners salary has not been raised in four years and no other state employee's salary has been raised.

MOTION: **Senator Tippetts** moved, seconded by **Senator Schmidt**, to send **H645** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will be the sponsor of the bill.

There being no further business the meeting adjourned at 1:50 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AMENDED #1 AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Tuesday, March 20, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	March 13, 2012	Senator Tippets
APPROVAL:	March 15, 2012	Senator Johnson
S1395	Relating to the Board of Directors of the State Insurance Fund - Board Member Compensation	Senator Goedde
H613	Relating to the Idaho Travel and Convention Industry Council	Pam Eaton, Representing Lodging & Restaurant Assocaiton

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippets
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 20, 2012

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason convened the meeting at 1:02 p.m.

MINUTES March 13, 2012

APPROVAL: March 15, 2012

MOTION: **Senator Tippetts** moved, seconded by **Senator Goedde**, to approve the minutes of March 13, 2012. The motion carried by **Voice Vote**.

MOTION: **Senator Johnson** moved, seconded by **Senator Smyser**, to approve the minutes of March 15, 2012. The motion carried by **Voice Vote**.

S1395 Relating to the Board of Directors of the Idaho State Insurance Fund - Board Member Compensation. **Senator Goedde** declared that he is a member of the Idaho State Insurance Fund Board. Since he is not a participant in the Public Employee Retirement System of Idaho (PERSI) this legislation would not apply to him.

Senator Goedde stated that this bill will remove members of the State Insurance Fund Board from the PERSI System. The remuneration for the State Insurance Fund Board members will be changed to an honorarium. This is accomplished by changing the reference in Section 59-509 (h), *Idaho Code*, to Section 59-50 (n), *Idaho Code*.

MOTION: **Senator Tippetts** moved, seconded by **Senator Cameron**, to send **S1395** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Goedde** will be the sponsor of the bill.

H613 Relating to the Idaho Travel and Convention Industry Council. **Pam Eaton, representing Idaho Lodging and Restaurant Association**, advised this bill before you deals with Idaho Travel and Convention Industry Council. The legislation adds the word "consecutive" so that members of the Idaho Travel and Convention Industry Council can serve more than once in a lifetime, which is consistent with other boards and councils. It also moves the appointment date from July 1 to January 1 to be more consistent with the grant application and distribution process. The other additions and deletions from the bill are clean-up language for the removal of council members if so needed.

MOTION: **Senator Goedde** moved, seconded by **Vice Chairman McKague**, to send **H613** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Chairman Andreason** will be the sponsor of the bill.

There being no further business the meeting adjourned at 1:09 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Thursday, March 22, 2012

SUBJECT	DESCRIPTION	PRESENTER
PAGE	Page Presentation & Thank You	Chairman Andreason
MINUTES APPROVAL:	March 20, 2012	Senator Schmidt
H649	Relating to Insurance	Representative Black
H624	Relating to Trust Deeds	Jeremy Pisca, representing Newspaper Association of Idaho

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

COMMITTEE MEMBERS

Chairman Andreason
Vice Chairman McKague
Sen Cameron
Sen Goedde
Sen Smyser

Sen Tippetts
Sen Johnson
Sen Stennett
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 22, 2012

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Andreason, Vice Chairman McKague, Senators Cameron, Goedde, Smyser, Tippets, Johnson, Stennett, and Schmidt

**ABSENT/
EXCUSED:**

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

Chairman Andreason called the meeting to order at 1:01 p.m.

PAGE Page Presentation and Thank You. **Chairman Andreason** graduated the Committee's page **Elisabeth Manor** from the page program and thanked her for her service to the Committee.

**MINUTES
APPROVAL** March 20, 2012

MOTION: **Senator Schmidt** moved, seconded by **Senator Goedde**, to approve the minutes of March 20, 2012. The motion carried by **Voice Vote**.

H649 Relating to Insurance. **Colby Cameron, Attorney, Sullivan, Reberger and Eiguren, representing Asurion**, explained the bill established portable electronic device insurance as a limited line of insurance and regulates its provision. The main features of this bill are: 1) It requires vendors of portable electronics insurance to be licensed; 2) It specifies that employees and authorized representatives of vendors are not required to hold separate licenses; 3) It establishes certain disclosures that must be made to consumers; 4) It sets forth termination and electronic notice provisions; 5) It requires training of vendor employees and authorized representatives; 6) It provides that the performance of clerical activities associated with adjuster activities for portable electronic devices does not require an adjuster's license; and 7) It adds provisions governing the licensure of a resident of Canada as an adjuster.

Senator Goedde stated that portable electronic insurance deals with physical damage to the device. **Mr. Cameron** replied that it deals with the damage to the device and other things as well. The device is covered for damage in situations where something happens to the cell phone in the course of use by dropping, immersion in water, etc. **Senator Goedde** asked for clarification of Section 8, "responsibility of action of others." Typically, if you are selling insurance you protect yourself by buying an errors and omissions policy that would extend from the licensed agent to employees of authorized vendors? **Mr. Cameron** explained that he could not answer this question.

Senator Tippets said on page 11, line 18, Section 41-1103 deals with licensure of residents of Canada, is there a reason they are specifically listed in this legislation? **Mr. Cameron** stated their client has a call center located in Canada. The call center is used as a central adjusting area. **Senator Tippets** asked for further clarification on line 18. of Section 41-1103, "stating no resident of Canada may be licensed as a resident adjuster or may designate Idaho as his home state." If that individual has passed the adjuster examination then they can be designated as resident

adjuster for the State of Idaho. Is this correct? **Mr. Cameron** responded that this was correct. **Mr. Tippetts** stated that this specific provision is beneficial to the company that they represent; what about another company that might have a center in Mexico that is adjusting claims? Why does the legislation not make provision for other countries as well as Canada? **Mr. Cameron** clarified that it was not the intent of the legislation to preclude any other companies call center that might exist in another country. Canada was placed in the legislation to make it clear that the call center in Canada, as an adjuster, could choose Idaho as their home state.

Senator Tippetts said their firm thought it was necessary specifically to grant this provision to Canada then the Committee could infer that this provision would not apply to other countries. **Mr. Cameron** explained this was a specific provision for the company they represent who has the call center in Canada.

Jason Kreizenbeck, representing AT&T, spoke in support of the **H649**. AT&T believes that this legislation is a good state based solution that will lower regulatory burdens on portable electronic insurance and it streamlines the logistics of licensing our employees and sales staff.

In response to questions from **Senators Stennett** and **Tippetts** concerning the specific provisions concerning Canada in this bill and whether the Department has taken a position on the legislation, **Tom Donovan, Deputy Director, Department of Insurance**, stated that the Department has not taken any official position on the legislation. The sponsor of the bill has met and consulted with the Department as the legislation progressed and the Department has no objections to this legislation. The Department's interpretation of the language is that the entity is subjecting themselves to the jurisdiction of the Department by virtue of coming in and applying for the license, if Idaho were their home state.

Senator Tippetts explained that placing the provision of "Canada language" for the unique circumstances of a specific company within this legislation seems to imply preferential treatment to a specific business circumstance and he is unable to support the bill as written. In response to requests from **Senators Tippetts, Stennett and Goedde, Roy Eiguren, Attorney, Sullivan, Reberger and Eiguren**, stated that they would amend the legislation by deleting the Canadian provision in Section 41-1103.

Senators Smyser and Cameron stated pursuant to rules of Senate 39 (H), they have a conflict but still wish to vote on **H649**.

MOTION:

Senator Goedde moved, seconded by **Senator Schmidt**, to send **H649** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

H624

Relating to Trust Deeds. **Jeremy Pisca, Attorney, Risch, Pisca Law Firm, representing Newspaper Association of Idaho (NAI)**, advised NAI represents 47 newspapers from every part of the state and in each of your communities, 36 weekly newspapers and 11 daily newspapers. The majority of the smaller newspapers are "mom and pop" operations.

The issue this legislation addresses is residential home foreclosures under a deed of trust. In the past, the State of Idaho foreclosed on mortgages, but moved to the deed of trust system for its ease of foreclosure. It required less time than a judicial process, but because it is an easier method to foreclose upon a house in which an individual is unable to pay their obligation there are a number of safe guards and checks and balances that were put into place.

When a bank loans money, it is the beneficiary. It loans money to a homeowner, that homeowner then grants a trust deed to a trustee who holds that deed. The trustee holds the power of sale upon a deficiency. Part of the checks and balances

are the homeowner, upon an event of deficiency, gets personal notice from the trustee; and notice must be published in a newspaper in four consecutive weeks for two reasons. The reasons why they require that those notices be published in a newspaper of general circulation within the county: 1) To attract more bidders; and 2) Impose a level of transparency upon the process of foreclosure. Why would they want to attract more bidders to these foreclosure sales? The debtor who owns the home is still obligated to pay the underlying debt. If there isn't enough proceeds that come in from the sale of the property, that homeowner can still be liable for the deficiency. Line 26 of the bill, states that the homeowner still is liable for the debt, outstanding taxes, assessments, insurance premiums, any subordinate liens, costs and expenses of the actual sale, trustee's fee and any attorney's fees expended in the sale. Upon the sale of the property the proceeds pay in order: 1) The trustee and attorney fees; 2) Obligation; 3) Recorded liens; and 4) Surplus would go to the homeowner.

Why do you need transparency in this process and what does publication in the newspaper offer by way of transparency? It offers an independent verification that the notice of sale has been published. It creates a record of proof that notice was adequately served. The publication notifies any interested bidder and attempts to notify anyone who may have an interest in the property, such as subordinate lien holders and leasehold interests. If the goal is for broad distribution to attract the maximum amount of bidders, then it goes against the public policy in the State of Idaho for the trustee to have a financial interest in the newspaper that is publishing the notice. If the choice of the trustee is to publish in a newspaper that has a circulation of 22,000 people versus a newspaper that the trustee owns that has a circulation of only 1,000 people, clearly there is no other reason to publish in that smaller publication unless there is a financial interest. The legislation before has been triggered by a disturbing trend. This trend is occurring throughout the Northwest and began in the State of Washington, onto Oregon, Hawaii and Alaska.

This process is a threat to smaller weekly community newspapers in the State of Idaho. It serves to damage larger newspapers (See Attachment 1 and 2 - Newspaper Articles). In terms of revenue, this is a far bigger issue for the smaller newspapers because these rates that are charged to publish these notices are set in statute. On average, one of these notices costs \$400 total, to publish four times, if you are only required to publish that notice 1,000 times versus 75,000 times it becomes more profitable to do so.

H624 removes the financial incentive to "self deal" and to bury those notices in newspapers that are smaller, cheaper to operate, and obscure. There has been an allegation that this law cannot sustain judicial review. Rejecting ownership interests in other business type facilities is not something that is little. In the medical profession you have the Stark Laws. Physicians cannot have an ownership in, for example, an MRI where they would be referring a patient to the MRI for their profit. Secondly, in the alcohol laws there is a three year system in which breweries cannot have an interest in a retail establishment in that regard they cannot "self deal." On page 2, line 23, of the legislation states that it is unlawful for a trustee for the trustee's sale to have a financial interest in a newspaper publishing such notice or to profit, directly or indirectly, based on the publications of such notice of sale and such conduct shall constitute a misdemeanor, punishable by imprisonment in the county jail for a term not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

Mr. Pisca spoke to the definition of a trustee defined in Blacks Law Dictionary. (Attachment 3 - Definitions). Trustee is a person who is holding an interest in property in trust. A trustee owes a fiduciary duty to the beneficiary. A fiduciary duty to act for someone else's benefit, while subordinating one's personal interests to that of the other person. It is the highest standard of duty implied by law. In this case, the trustee is not subordinating their personal interests to that of the other person. They are "self dealing" and directing the notices to newspapers to which they own.

Senator Tippetts asked, in the bill he reads, that merely having a financial interest in the newspaper publishing that notice, is unlawful. **Mr. Pisca** said on page 2, line 23, is all one sentence. It reads that it would be unlawful to have a financial interest in the newspaper or to profit directly or indirectly based on the publication of such notice. **Senator Tippetts** asked why the need for the word or in line 24? **Mr. Pisca** clarified that language was put in there to deal with the allegations that a trustee was charging its clients more than the statutory rate (see Attachment 2). There have been allegations that those prices have been inflated and passed on to unsuspecting customers and that they have been profiting directly or indirectly based upon publication of such notice.

Stephen Routh, CEO, Realty In Motion (RIM), stated that RIM is a group of companies offering a foundation including newspapers, law firm components, posted publication companies, and websites. The Idaho company presence has 35 employees with an annual payroll of \$9M. The publication arm is RIM Publications operating papers in four western states, Idaho, Washington, Oregon and Hawaii. The typical RIM newspaper is community owned, none of them profitable prior to their purchase. The Kuna Melba News locally is one of the newspapers their company acquired. They have made a difference in this communities newspaper with new equipment, benefits and raises paid to the employees, and new office space. This is typical of what takes place when RIM acquires these smaller newspapers.

Mr. Routh spoke in opposition to **H624** advising this statute is aimed at one company RIM. The goal of the legislation is to protect borrowers, banks and potential third party bidders. No one has brought in facts of wrong doing only vague threats of what will happen. The bill before you does not prevent foreclosures. Does not reduce the cost of foreclosures. Does not increase newspaper accountability for legal advertisers, lenders or trustees. Does not increase the accuracy or quality of newspaper legal ads. Does not reduce the harm of foreclosure process to the borrower or correct any real problem that exists in the process today.

Matt Davison, Publisher of Idaho Press Tribune, spoke in support of **H624** advising that as a newspaper of record in the Canyon County Community they follow the letter of the law and act as an independent third party to verify all the notification to the community they serve. Currently in Canyon County, 1 out of every 268 homes is in the foreclosure process.

Larry Benton, Lobbyist, Benton, Ellis Associates, speaking on behalf of RIM Newspaper Publisher in Kuna, spoke in opposition to **H624** stating you have in your packet a letter from Mr. McIntosh, Editor, of the Kuna Melba News, (Attachment 4 - E-mail Letter from Scott McIntosh), addressing all the positive aspects of their newspaper's purchase by RIM. **Mr. Benton** requested an ad hoc committee, over the summer, review the entire legislation of this trustee and foreclosure process. It was 1957 when the rules were last put forth and should be reviewed. **Senator Stennett** asked for clarification if RIM was a partner or the owners of the Kuna Melba News? **Mr. Benton** stated that RIM is the owner of the Kuna Melba News. **Senator Stennett** asked through the purchase of the Kuna Melba News, RIM is able to move the trust notices from other newspapers in the area, that they do not own, to their newspaper that they do own? **Mr. Benton** stated RIM can put

those notices in the Kuna Melba News. **Senator Stennett** asked what was the circulation for the trust notices in the area newspapers versus the Kuna Melba News? **Mr. Benton** stated the circulation of the Idaho Business Review which was publishing these trust notices 2,500. The circulation notice that was published by the Idaho Kuna News was 2,200. **Senator Goedde** asked what is the circulation of the Idaho Statesman and do they publish these trust notices? **Mr. Benton** replied the circulation of the Idaho Statesman is approximately 70,000. **Senator Goedde** said if a homeowner is going to get whatever is left out of the trustee sale and the company that is processing the foreclosure is spending \$400 for an ad they would be better served by a publication with a circulation of 70,000 versus 2,200. **Mr. Benton's** response was that the Northwest Trustee Services, Inc.(NTI) operates a website that is right on the front page of the Kuna Melba News that is the finest website in the northwest. You can look on the website and pull up sales for states all around us. The websites are what really cover the sales and the circulation through the website is extremely high. **Senator Goedde** asked would their group be willing to set down in the interim and take a look at the broader perspective. **Mr. Benton** replied that the proper perspective is there needs to be a resolution to this process and believes this legislation is not the correct remedy. The bill benefits absolutely no one but the owner of the property who is subject to foreclosure.

John Eaton, representing The Idaho Association of Realtors, spoke in support of **H624** advising this was an issue that first came up to them when they were looking at another piece of legislation. The issue of a trustee being able to open or purchase a newspaper in order to publish the trust notices. Their Association deemed this process to be unfair taking the notices out of the bigger circulation newspapers and placing them in a newspaper that the trustee owns with a smaller circulation. The companies that process the trustee sales, First Title and NTI, do a vast majority of these trustee sales. RIM is taking all of their trust notices and placing them into the Kuna Melba News. Their Association who represents the sales in Boise, now has a lower circulation number, for these homeowners who are trying to get the best price for their properties. At the end of the day, when that sale is done, the person who owns the house is on the hook for the remainder of the money.

Senator Schmidt stated is there evidence that the website provides improved circulation and access to the trust notices? Wouldn't moving these notices to the Kuna Melba News decrease attention and lower the price of the properties? **Mr. Eaton** responded that they did not have evidence, but did say that this was the consensus of their Association members in regard to the circulation issue.

Cameron McFadden, Title One Corporation, testifying in opposition of **H624** explaining if the public policy in relation to this legislation questioned is basically to attract bidders on these foreclosed properties. Title One's policy behind foreclosure is to provide a speedier remedy for lenders to take back property that is in default. It is required that the trust publication be made in a paper of general circulation in the county where the property is located. Given the state of the economy at present, the depth of this problem is very miniscule. The value of homes right now are so much lower than the deeds of trust conservatively 100 trustee sales attracts a bidder because there is no value in the properties. The lenders are making credit bids for the amount they are owed. Title One's perspective is the investor community are not the individuals watching the newspapers they are watching the websites. They believe that this legislation is too vague to deal with the problem. **Senator Stennett** asked does a title company verify publication of these trustee notices? **Mr. McFadden** answered there is a statutory that requires verification of the trustee publication. They have to file an affidavit that states that they have published these notices in a paper of general circulation.

Senator Smyser inquired of **Mr. Pisca** would this legislation be better served by being looked at in an interim committee? **Mr. Pisca** stated this is a public policy issue concerning what is the roll of a trustee and what is their fiduciary duty. Does it make sense for them to have an ownership interest in the paper of publication. It is a clear case of "self dealing" and was not contemplated in the history of foreclosure and deed of trust notices. It is a phenomenon brought on by the economic recession and is a boom time for the foreclosure market and it does not look as if it will let up. It is expected to get worse, at least until 2015. The day the Kuna Melba News was purchased all of the legal notices came out of all of the other publications in the Treasure Valley, that's the problem, hence the emergency.

Kris Ellis, Lobbyist, representing RIM, spoke in opposition to **H624**. This bill does not say that you cannot publish in the Kuna Melba News. It doesn't say that First American, Title One, Pioneer Title, Bank of American or Wells Fargo cannot publish in the Kuna Melba News. The RIM website over the last six months has had over 200,000 hits on it from individuals all across the country looking to buy foreclosed homes in Idaho. That is more than any paper in the valley. The real solution to this problem is to get the message out to the greatest number of people. In this electronic age regulating the notices through newspaper ownership is not the way to solve the problem. **Senator Goedde** asked for clarification of the process by which a paper is chosen for the ads to be placed? **Ms. Ellis** stated that the banks choose the trustee who is taking back the property. **Senator Goedde** asked for explanation on the relationship between the trustee service and the banks that are taking possession of the foreclosed properties. **Ms. Ellis** replied that banks hire NTI to do the foreclosure process.

Senator Cameron stated the question that the Committee has to decide is this a public policy of the state that a trustee and the newspaper, whose services are used for the publication of the trust notice, allowed to be owned by the same entity. It has been a long standing public policy of the State of Idaho that in the medical field there is no self-referral. Why shouldn't this be the same public policy when it comes to foreclosure. Why should it be the public policy of the state for the trustee to also own the newspaper and I can give you a great deal on the ad in the Kuna Melba News. **Ms. Ellis** stated within health care, St. Lukes has integrated health care and the model of buying physicians and being able to do an efficient job of delivering health care because it is a streamline process. The banking industry such as Wells Fargo, Bank of America, etc. are hiring the companies that they represent because they have to do foreclosures in an efficient manner because they have the businesses to process the foreclosure. **Senator Cameron** stated that the system that RIM has set up is more efficient and streamlined. If these are the only two issues, should the trustee be able to profit by being a trustee and turnaround and profit by placing the ad with the company at the same time.

Sean Evans, Publisher and Vice President, Idaho Business Review, spoke in support of **H624** explaining there is an inherent conflict of interest for a trustee to pay himself to advertise and verify with himself due process of the notice. **H624** will restore independence of the foreclosure process, transparency, accountability to the foreclosure process. Allowing a trustee a monopoly over all facets of the foreclosure process corrupts the process, undermines public confidence in the legal system and courts scandal.

Derrick O'Neill, Attorney, Routh, Crabtree, and Olsen, spoke in opposition to **H624** advising that Idaho's deficiency statute limits as the difference between the amount that was due to the owner at time of sale and the fair market value of the property for the sale price. Sale price of the foreclosed property does not reduce the homeowners potential liability for deficiency. The homeowner still gets credit for the fair market value of the property. To suggest that this legislation will right some

wrongs and protect homeowner rights from the deficiency standpoint shows a lack of understanding of Idaho deficiency statutes work. This should answer **Senator Johnson's** concern about why this creates a monopoly.

Mr. O'Neill explained that the trustee is not the bank. The bank is the entity to which the homeowners make their payment. The prospects of the trustee interfering with the process and monopolizing the process ignores the fact that the underlying debt and obligation is owing to the bank. The bank authorizes the trustee sale, has the loan with homeowner and is the one who initiates the foreclosure process. The two clauses that are in statute itself: 1) The trustee cannot have any ownership interest in the newspaper; and 2) The trustee cannot profit from publication. These clauses will produce litigation. The suggestion that the trustee cannot profit by publishing the notice, irrespective of whether they own the paper or not, suggests that there is a possibility to interfere with the non-issue foreclosure process and to upset any foreclosure sale. Every trustee charges for their services whether they own the newspaper or not. If they are going to be held liable for making money from charging for their services by virtue of occupation, they are potentially criminally liable. **Senator Goedde** asked **Mr. O'Neill** if he has any business relationships with NTI or RIM? **Mr. O'Neill** stated he is an attorney with Routh, Crabtree and Olsen which is a related entity to RIM.

Senator Goedde advised that alleged statement was made that RIM is looking at purchasing as many as 50 more newspapers in the western United States. He believes that the problem is going to get worse if Idaho waits another year before taking action on this trustee process.

MOTION: **Senator Goedde** moved, seconded by **Senator Stennett**, to send **H624** to the floor with a do pass recommendation.

ROLL CALL VOTE: **Chairman Andreason** then called for a **Roll Call Vote** for **Senator Goedde's** motion. **Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt, Vice Chairman McKague and Chairman Andreason** voted aye. There were no nay votes. The motion carried.

There being no further business, the meeting was adjourned at 2:40 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary