MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE:	Thursday, February 06, 2014
TIME:	1:30 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Tippets, Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Martin, Lakey, Schmidt and Ward-Engelking
ABSENT/ EXCUSED:	None
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.

CONVENED: **Chairman Tippets** called the meeting to order at 1:30 p.m. He welcomed all and explained there were changes in the order of the agenda.

RS 22535 **Relating to Eminent Domain Proceedings** was presented by Senator Chuck Winder. **Senator Winder** said this legislation would require any department, public subdivision, or agency seeking condemnation of an owner's property via eminent domain proceedings, to compensate the property owner for expenses and fees related to defending themselves against a condemnation action, and to be awarded by a court of proper jurisdiction, fees and expenses related to the defense of the legal action pending against them. The fees and expenses could be awarded by the court as project plans may be amended by the department of jurisdiction during the litigation seeking condemnation of the owner's property. There should be no impact to the general fund. However, he said, there could and likely would be a fiscal impact to dedicated funds.

In response to a question about the appraisal process by Vice Chairman Patrick, **Senator Winder** stated the property owner would still have to go through the appraisal process. The courts would decide the value of the property and what damages could be paid for attorney's fees because the property owner still has to pay for the original expenses. This legislation allows the judge to revisit the fee phase and actually reimburse the property owner for expenses, even after the department of jurisdiction may have changed the design.

Senator Winder said the use of eminent domain was limited. **Senator Winder** explained that if the departments would do their homework up front and develop plans that were not changed two or three times, this probably wouldn't be an issue. There could be no impact or a significant impact upon dedicated funds. If the department of jurisdiction made changes three or four times, the department would be responsible for litigation and the cost of expert witnesses that might be involved. **Senator Winder** noted that the idea is to discourage departments from changing things that are adverse to the property owner and to encourage the departments to be willing to protect property rights of owners during the process.

Senator Cameron asked what the fiscal impact would be if this provision had been in place and used a year ago. He noted the Department of Transportation and state agencies or local units of government could use eminent domain. Property taxes and transportation funds could be impacted and he wanted to know whether other funds would be affected. **Senator Winder** said he has known of at least two or three eminent domain cases involving state or local jurisdiction. He said the attorney and engineering fees could add up to tens of thousands of dollars for the

total litigation process. **Senator Cameron** said he supported printing this RS, but he would like to have some examples of the fiscal impact, if and when the bill came back to the Committee.

MOTION: **Senator Patrick** moved to send **RS 22535** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 22743C1 **Relating to Property** was presented by Senator Jim Rice. **Senator Rice** said currently homeowners associations (HOA) enforce covenants and restrictions in subdivisions by fining individual homeowners for violations of covenants and restrictions. Frequently, these fines are levied despite homeowner attempts to comply with the covenants and without any process other than a letter informing the homeowner that they will be fined. The fines are then enforced through liens on the homeowner's real property. This bill puts reasonable requirements in place that protect the homeowner from arbitrary and capricious actions by the HOA and provides a set of standards that courts can use if there is a dispute regarding the validity of the fine in a subsequent lien foreclosure action. There is no fiscal impact.

Senator Rice said he was personally aware of instances where homeowners were not given enough time to correct a violation of the HOA covenants, conditions and restrictions (CC&Rs) and a lien was placed against their property, even when they were trying to bring their property into compliance. Apparently, this is a widespread problem. **Senator Rice** said this bill would require a number of steps before a homeowner could be fined. The rules for imposition of fines has to be in the CC&Rs. There has to be a majority vote of the HOA board at a meeting prior to imposing a fine. The vote would have to be preceded by a 30-day written notice. If a homeowner was working on correcting a problem, they cannot be fined. Frequently, when a property management company is hired, they keep the fine money. However, the money cannot be used towards employee salaries.

Senator Guthrie asked how we would define "good faith". **Senator Rice** responded that if there is a fine imposed and the case goes to court on an action to collect the fine, the implied covenant of good faith is a general presumption that the parties to a contract will deal with each other honestly and fairly, so as not to destroy the right of the other party or parties to receive the benefits of the contract.

MOTION: **Senator Guthrie** moved to send **RS 22743C1** to print. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

RS 22695 **Relating to the Public Works Construction Management Licensing Act** was presented by Colby Cameron, representing the Idaho Association of General Contractors (IAGC). **Mr. Cameron** said this bill updates Idaho Code to allow for Construction Manager/General Contractor contracts on publicly funded building projects. It does so while maintaining the safeguards and integrity of the public works contracting process.

Mr. Cameron said this change will allow public entities to enter into guaranteed maximum price commitments with construction managers. Under this type of arrangement, the contractor is bound to a maximum price for the total project and assumes responsibility to control construction costs and takes the risk of cost overruns. Doing so removes much of the price uncertainty and results in significant savings for the taxpayers. Projects are often completed on time and under budget. This is different than what is done now. Currently, the public entity cannot use the same contractor in the pre-construction and construction phases of the project. This is not a new concept. Private projects and public road projects use guaranteed maximum price commitments. Also, he commented, this method was used in the redesign of the Idaho Capitol. About 15 other states already have similar statutes in place. The previous project delivery method and the built-in protections, like responsible bid processes in the code, will still apply. This bill has no impact on the

state General Fund and should result in significant savings to those public entities (school districts, cities, counties, and the State) engaged in construction projects.

MOTION: **Senator Patrick** moved to send **RS 22695** to print. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

RS 22768 **Relating to PERSI** was presented by Don Drum, Public Employee Retirement System of Idaho (PERSI). **Mr. Drum** stated that on November 20, 2012 PERSI received a determination letter from the Internal Revenue Service (IRS) for the PERSI Base Plan. A determination letter is the IRS's statement that the terms of the plan (PERSI's statutes and rules) are in accordance with applicable federal statutes to qualify the plan as a qualified governmental pension plan under Section 401(a) of the Internal Revenue Code (IRC). The determination letter was issued subject to PERSI making certain statutory and rule changes. This bill addresses the statutory changes.

Idaho Code § 59-1306 states that the plan will be administered in accordance with certain enumerated subsections of Section 401(a) of the IRC. This bill will add references to Subsection 36 and Subsection 37 of § 401(a) of the IRC. Subsection 36 was added to the IRC in 2006 and Subsection 37 was added in 2008.

Subsection 36 provides that a plan is not disqualified if it allows for a distribution to a person age 62 or older who is not separated from employment. The PERSI plan generally does not allow a person to collect retirement while still working, except for limited circumstances for part-time elected or appointed officials. Subsection 37 requires that the qualified plan treat a participant who dies while performing qualified military service as if he had resumed work and then died. The PERSI plan does that in Idaho Code § 59-1302(23) (definition of military service).

Mr. Drum said the bill will also add a statement that the plan shall be administered in accordance with the Employee Retirement Income Security Act (ERISA) vesting requirements of § 411(e)(2) of the IRC. That section requires 100 percent vesting upon a plan termination or upon complete termination of all employer contributions. These sections of the IRC already apply to PERSI, which is a qualified governmental retirement plan. This bill clarifies these requirements by adding references to these sections. The potential impact of the amendments to the General Fund and retirement system funds is considered negligible.

MOTION: **Senator Martin** moved to send **RS 22768** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 22797 **Relating to Agreements Between Suppliers and Dealers of Farm Equipment** was presented by Roger Batt, representing the Pacific Northwest Hardware and Implement Association (PNWA). **Mr. Batt** said the Idaho Equipment Dealer Protection Law was passed to protect farm equipment dealers from changes imposed by farm equipment manufacturers, if those changes are substantial and negatively impact the dealer's business. This legislation provides clarification to the original intent of the statute by prohibiting suppliers from "substantially changing the competitive circumstances" of the dealer agreement and prohibiting changing the relationship between the dealer and manufacturer without good cause. The legislation also adds clarity to ensure that persons interpreting this law understand that the terms of a dealer agreement do not impact the determination of whether there has been a "substantial change in the competitive circumstances of the dealer agreement."

He explained dealer agreements are often referred to as "contracts of adhesion". This label is assigned because most agreements are structured as a "take it or leave it" proposition made by the manufacturer to the dealer. This is especially the case with respect to major manufacturers such as Deere, New Holland, Kubota and others. The other reason these agreements fall into the "contract of adhesion" category is that virtually all of them give the manufacturer the right to unilaterally amend the dealer agreement or the policies that govern the day-to-day relationship between the manufacturer and the dealer. Manufacturers routinely exercise these rights. **Mr. Batt** said the result is that dealers often sign contracts based on business expectations, even if the dealer agreement permits the supplier to make future changes that impact the business's expectations. Due to this reality and the significant potential for unfairness, the Legislature has previously determined that independent retail businesses operated by these dealerships are vitally important to the economy and welfare of the State of Idaho and that the dealer's agreements should be subject to regulation to protect the interests of these independent dealerships (this is stated explicitly in Idaho Code § 28-24-101).

Mr. Batt went on to say that regulation of dealer agreements through the dealer protection statute has the purpose of creating protections for the dealers against unfair treatment by the manufacturers. He said the PNWA closely monitors the dynamics of the relationships between dealers and manufacturers to determine if an action strategy is necessary to add additional protections or adjustments to dealer protection statutes or to see if issues can be worked out without amending statutes. Farm equipment dealers each have a geographic Area of Responsibility (AOR). This not only is defined in statute as a geographic area of retail, but more thoroughly represents an area of retail assigned to that dealership in the dealer agreement with the manufacturer (e.g., a store in Twin Falls has a geographic area assigned to it by the manufacturer to sell equipment to customers and to meet market share requirements by the manufacturer).

Mr. Batt explained that for decades, dealers have understood that once they are assigned an AOR by the manufacturer, that this AOR belongs to them to conduct business and to meet market share requirements by the manufacturer. Dealers also understand and recognize that they cannot restrict trade within another dealer's AOR and that someone from one AOR might sell equipment to a customer in another's AOR. Dealers have accepted this as a part of doing business within the free-trade system. What dealers are not accustomed to, and the driving force behind this legislation, is that there has been a manufacturer that allowed a dealer to build another dealership within an existing dealer's AOR. This occurrence has been fully recognized by many PNWA members as wrongful, unethical, harmful to existing business owners, and not in conformance with the intent of Idaho's Dealer Protection Law. It is understood by a dealer that if they are going to get into the equipment dealership business and be issued a particular AOR and be held responsible for selling machinery within that trade territory, that they are going to spend a lot of capital building a building, buying inventory, investing in employees, and paying for other expenses. With an investment such as this, a dealer is not anticipating another dealership being allowed into the same AOR to establish a physical presence and out-compete that business that has already been established. **Mr. Batt** said this would no doubt substantially change the competitive circumstances and the dealer's relationship with the manufacturer if this were to happen. This has happened here in the State of Idaho very recently. This is why the PNWA is asking for this legislation to be passed as they have a few dealers who are already being financially impacted by this occurrence. It is also the legal opinion of the PNWA that the manufacturer who entered into a dealer agreement to allow a different dealer to build a dealership within another dealer's AOR violated the current intent of the Dealer Protection Law. The manufacturer disagrees because they stated that this was allowed in the Dealer Agreement.

There is no fiscal impact to the General Fund. **Vice Chairman Patrick** thanked Mr. Batt for his informative presentation.

MOTION: **Senator Guthrie** moved to send **RS 22797** to print. **Senator Cameron** seconded the motion. The motion carried by **voice vote**

RS 22819 **Relating to Payday Loans** was presented by Senator Lee Heider. **Senator Heider** reviewed the components of this proposed legislation. **Senator Heider** said this legislation would require that no additional fees be collected by the lender for renewal of loans. A limit of 25 percent of the monthly gross income of the borrower would be the maximum of any payday loan, as proven by the borrower. Payday lenders will not present the borrower's check to the depository institution more than twice. This proposed legislation allows borrowers to enter into an extended payment plan to complete their payments at no additional charge. Written disclosures have to be provided to a borrower before loan approval and funds can be disbursed. There is no fiscal impact.

Senator Heider said the Department of Finance, lobbyists, Money Tree Lending and others all agreed these changes would protect borrowers and lenders.

Vice Chairman Patrick asked whether a borrower could pay off the loan at any time. **Senator Heider** said that the loan could be paid off at any time. **Vice Chairman Patrick** asked what the interest rate would be on an amortized loan. **Senator Heider** replied that the fees were paid when the loan was obtained and there would be no additional interest fees on the remaining balance.

Senator Goedde asked what happened after two electronic payments were returned unpaid. **Senator Heider** said the borrower would have the option of converting the loan to an amortized loan and a payday lender could not charge treble damages. **Senator Goedde** asked what would happen if someone took out a loan with the intention of never paying it back; what were the options available for a payday lender? **Senator Heider** said if the borrower was not willing to accept a payment plan, then the lender would lose their money. **Senator Goedde** commented this was certainly an opportunity for fraud and something for law enforcement to consider.

Senator Schmidt referred to Section 4, Subsection 4 where it stated that a payday lender cannot charge interest or additional fees as part of an extended payment plan, except as permitted in Idaho Code. He wanted to know whether interest was accrued as part of the extended plan. **Senator Heider** explained the fees were charged when the loan was initiated. When the balance was due, no interest could be charged for the extended payment plan. **Senator Guthrie** commented that when a borrower was charged fees for the initial loan and the loan was converted to an extended loan, there was no additional interest to be gained by the lender. **Senator Heider** said the loan was interest free because the fees were paid when the loan began. The borrower could pay off their loan in four segments.

MOTION: **Senator Martin** moved to send **RS 22819** to print. **Vice Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

PASSED GAVEL: Chairman Tippets passed the gavel to Vice Chairman Patrick.

RS 22782 **Relating to Driver's Licenses** was presented by Chairman Tippets. He gave a brief history, and he said this was brought to him by a constituent who operates a private driving school. There are a number of private driving schools in the State and at one time they were administered with the public driver training schools through the Department of Education. In 2009, however, that arrangement was changed so that private driver training schools are now administered under the Bureau of Occupational Licenses. When that happened, their license fees dramatically increased. Now fees are in the range of $500 or $600 because private driving schools have to be self-sustaining. **Chairman Tippets** said this legislation would require that $5 (to offset costs) of each $15 fee paid for a Class D driver's training permit be paid to either the driver training account in the Public School Fund, (if the person is taking driver's training from a public school) or to the Bureau of Occupational Licenses Fund for deposit in the State Treasury (if the person is taking driver's training from a private driving school).

Chairman Tippets explained that currently, this $5 is paid to the driver training account regardless of whether the student is enrolled in driver's training through a public school or through a private driving school. Private driving schools are now asking that out of the $15 fee that $5 of the fee that currently goes to the Department of Education be sent to the Board of Occupational Licenses to help offset the cost of their licenses. The private driving schools feel that the $5 fee is fair because it is paid by those who are going to take driver's education from them. If someone is taking driver's training at the public school, the $5 would still go to the public school. It is estimated that approximately $25,000 per year would be credited to the Bureau of Occupational Licenses fund rather than to the driver training account.

Senator Schmidt asked how this would work when a person applies for a driver's training permit through a private driver's training school. **Chairman Tippets** said that in a previous draft more of the process was outlined, but that stipulation was taken out so the Bureau of Occupational Licenses could determine the best process in order to identify that information. **Senator Goedde** asked what the driver training account was used for. **Chairman Tippets** said this money helps to defray the cost of driver's education at public schools. He commented that public schools have other sources of funding. There is another $125 that goes to the public schools that the private schools don't receive. **Senator Goedde** asked whether the money went to the school districts or the Department of Education. **Chairman Tippets** said the money went to the individual school districts, he thought, but he would find out.

MOTION: **Senator Schmidt** moved to send **RS 22782** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED GAVEL: Vice Chairman Patrick passed the gavel back to Chairman Tippets.

RS 22787 **Relating to Veterans** was presented by Pam Eaton, Idaho Retailers Association. **Ms. Eaton** said this legislation clarifies that private employers may give preference to the hiring and promoting of veterans. She said a private, non-public employer may give preference in the hiring and promotion of employees to those who are eligible for preference under the provisions of Idaho Code § 65-503. She said veterans and disabled veterans; a widow or widower of any veteran, as long as he or she remains unmarried; and the wife or husband of a service-connected disabled veteran, if the veteran cannot qualify for any public employment because of a service-connected disability, are eligible for preference. There is no fiscal impact.

MOTION: **Senator Lakey** moved to send **RS 22787** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**

PASSED GAVEL: Chairman Tippets passed the gavel to Vice Chairman Patrick.

DOCKET NO. 07-0701-1301

Rules Governing the Installation of Heating, Ventilation, and Air Conditioning Systems (HVAC) was presented by Steve Keys, Deputy Administrator, Division of Building Safety (DBS). **Mr. Keys** said this docket from the HVAC Board (Board) adopts the 2012 versions of the International Mechanical Code (IMC), the International Fuel Gas Code (IFGC), and Parts V and VI of the International Residential Code (IRC). Taken together, these codes form the regulatory backbone applicable to HVAC installations in Idaho. **Mr. Keys** said like the adoption of the electrical code docket discussed in his last appearance before the Committee, the HVAC Board and the DBS approached the adoption process by forming a collaborative committee consisting of representatives of all facets of the HVAC industry, the home building industry, local regulatory authorities, realtors, and members of the Idaho Legislature. This committee became known as the HVAC Collaborative (Collaborative) and met several times in the process of arriving at amendments to the codes that enabled the group as a whole to endorse the adoption of the 2012 mechanical codes. The DBS and Board express gratitude to the members of the HVAC Collaborative for their efforts.

DBS has received no comments subsequent to publishing the proposed rule in the Administrative Bulletin, and they are aware of no opposition to the docket as of this date.

Senator Goedde asked how members of the Collaborative were selected. **Mr. Keys** said that a notice was posted for all who were interested in volunteering. **Chairman Tippets** said the rule allows alternate material to be used if, for example as outlined on page 71(f), a "dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available." **Mr. Keys** said that sometimes items are not available at a local market or there may be a changeover in the manufacturing process and this rule gives the Board some leeway.

MOTION:

Senator Goedde moved to adopt **Docket No. 07-0701-1301**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. **Senator Schmidt** asked that Mr. Keys meet with Mr. Stevenson to correct the misspellings in the RS, namely, the word "gauge".

DOCKET NO. 07-0209-1301

Rules Relating to Medical Fees was presented by Patti Vaughn, Industrial Commission (Commission). **Ms. Vaughn** said the primary changes in this rule are currently in effect by a temporary rule adopted July 1, 2013. She noted that pages 139 through 141, Idaho Code § 72-803 require physician payments for workers' compensation medical services to be based on the Resource Based Relative Value Scale (RBRVS), which is a reimbursement method used by the Centers for Medicare and Medicaid Services (CMS). There are two main components to RBRVS. First, CMS assigns each coded procedure a numerical relative value unit (RVU) based on the work, practice, and malpractice expenses associated with providing that service. Second, a monetary conversion factor is determined by the Industrial Commission. The allowed amount is the assigned RVU multiplied by the corresponding conversion factor. **Ms. Vaughn** pointed out that the table appearing on pages 139-140 showed the conversion factors assigned to each medical service category. **Ms. Vaughn** explained the edits appearing in the code ranges in Surgery Groups 2 and 3 are only to correct an error, restoring the conversion factors to what has already been in effect since July 2008. No other adjustments are proposed to the physician conversion factors for fiscal year (FY) 2015. Over the last few years the Commission has worked toward reducing both the number of conversion factors and the disparity between the service categories. An analysis of 2012 charge data, however, revealed that an increase to the medicine categories would allow an amount exceeding what most providers are currently charging for those services. After collaboration with the Advisory Committee and the Idaho Medical Association, it was agreed that no change is indicated at this time. The Commission will seek

new data and review again for FY 2016.

Ms. Vaughn said Sections .031.03 (page 139) and .031.06 (page 141) are housekeeping changes only. On pages 141-142, the Commission adopted a pharmacy fee schedule effective July 1, 2013. The standard for reimbursement is the Average Wholesale Price (AWP) plus a dispensing fee. The adopted dispensing fees were disputed by pharmacies as too low. After collaboration with the Idaho State Pharmacy Association and the Commission's Advisory Committee, the dispensing fees were adjusted from $2 to $5 for brand name drugs and from $5 to $8 for generic drugs. A $2 dispensing fee will now be allowed for prescribed over-the-counter medicine filled by a pharmacy. The Commission requests approval of this rule to help ensure access to care for injured workers and adequate compensation to physicians and pharmacies providing that care.

Senator Guthrie asked what the difference was between the brand name and the generic drug increases. **Ms. Vaughn** said a generic drug has a higher dispensing fee, but the cost of the brand is lower. The cost of the dispensing fee for a brand name drug is lower, but the cost of the drug is higher. **Senator Guthrie** commented this was an incentive for the pharmacist, not for the consumer. **Senator Goedde** said the RVRBS was designed with a single conversion factor, but through the urging of certain segments of the medical community, the rates have been artificially adjusted for these conversion factors. He said he applauded the Industrial Commission for trying to bring the rates back into some kind of normal range.

MOTION: **Senator Schmidt** moved to adopt **Docket No. 07-0209-1301**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 17-0210-1301 **Relating to Administrative Rules of the Industrial Commission Under Workers' Compensation Law - Security for Compensation - Insurance Carriers** was presented by Jane McClaran, Industrial Commission (Commission). **Ms. McClaran** said this pending rule change incorporates suggestions from Dennis Stevenson, Administrative Rules Coordinator, to achieve consistency among state agencies and simplify the rule itself. These changes include: hours of operation and office location, compliance with the Public Records Act, and the removal of actual reporting forms in the appendix. This last change is because the form itself is not actually a rule, but rather the rule is that a particular form be used. It is a common practice among state agencies to state "substantially similar" to the form posted on the agency website, which is what the Commission has done throughout the rule. **Ms. McClaran** said it is important to note that the Commission is not proposing any changes to the current reporting forms. The Commission implemented Electronic Data Interchange Proof of Coverage 3.0 (EDI POC) on August 1, 2013. As a result, language is incorporated on the top of page 149 on data element reporting requirements. The Commission has been receiving POC information electronically since 1997 and many of these data elements were already being reported to the National Council on Compensation Insurance (NCCI). **Ms. McClaran** said the Committee also added language (subsection 10, page 149) which provides reporting requirements and timelines to meet the statutory requirements of Idaho Code §72-306A, relating to deductible policies.

MOTION: **Senator Goedde** moved to adopt **Docket No. 07-0210-1301**. **Chairman Tippets** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0211-1301 **Relating to Administrative Rules of the Industrial Commission Under Workers' Compensation Law - Security for Compensation - Self-Insured Employers** was presented by Jane McClaran, Industrial Commission (Commission). **Ms. McClaran** said, similar to the proposed changes to rules governing insurance carriers, this pending rule also incorporates the suggestions from the Administrative Rules Coordinator, Dennis Stevenson, to achieve the same objectives of consistency and simplification of the rules governing self-insured employers. These include: hours of operation and office location, compliance with the Public Records Act, and the removal of actual reporting forms in the appendix. Again, the Commission is not proposing any changes to the current reporting forms. The Commission added a provision for a guaranty agreement under both the qualification and continuing requirements for self-insured employers (page 157 and page 160). This provides an additional tool when evaluating security deposit requirements applicable to employers organized as a joint venture or a wholly-owned subsidiary for analyzing the adequacy of those security deposits.

Ms. McClaran said next, under the Security Deposit with Treasurer section (top of page 158), language was added to clarify that securities are valued at par value and the frequency (semi-annually) that additional securities may be requested as a result of fluctuations in market value. This is followed in Subsection (c) by an exclusion of credit toward the security deposit requirements for excess insurance coverage provided by a surplus lines carrier (reference Department of Insurance Code). Finally, page 161, under Submit to Audits by Idaho Code, corrects a prior oversight when the rules governing insurance carriers and self-insured employers were split; the Commission neglected to include the same language in this rule that is in the insurance carrier rules, that identifies the Commission database as the authoritative source for proof of coverage for contractors.

Senator Schmidt asked about the provision stated on page 158 of the Pending Rules Book relating to approved securities. "No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule." He wondered how often the Commission determines the self-insured employer's total unpaid liability for compensation under the Workers' Compensation Law. **Ms. McClaran** said that page 157 describes the security deposits and indicates that value is par value. Market fluctuations may cause a security to be worth less today than par value.

MOTION: **Senator Schmidt** moved to adopt **Docket No. 07-0210-1301**. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0150-1301 **Relating to Adoption of the International Fire Code** was presented by Mark Larson, State Fire Marshal (SFM). **Mr. Larson** said the office of the SFM is a division of the Department of Insurance (DOI). He said this docket serves to adopt the 2012 edition of the International Fire Code (IFC) as a minimum standard for the State of Idaho. The IFC is a companion document to the Building Code. The DOI adopted the 2012 edition of the Building Code last year, with an effective date of January 1, 2014. This rule does the same for the IFC. He said the rule makes a few minor changes to the 2012 edition of the IFC, primarily to ensure local control over the permitting process, as well as any requirements for existing buildings. The other changes reflect either renumbering caused by the publishers rearranging the chapters or differences in the editions of referenced standards. None of the provisions related to driveways, water supplies or fire sprinkler systems would be changed by the adoption of this document. **Mr. Larson** said he knew of no opposition to this adoption. The SFM followed the negotiated rulemaking process.

Their intent to adopt the 2012 edition was widely known to all interested and affected groups. They received no input on this rule.

Senator Schmidt referred to page 202 and inquired about the language that was to be added "if required by the authority having the jurisdiction", and asked whether the local city-based or fire district that had the local jurisdiction. **Mr. Larson** replied the local government had the jurisdiction.

Senator Lakey asked Mr. Larson if he could provide more detail on the current requirements for residential sprinklers. **Mr. Larson** said Idaho Code § 39-4116 was passed several years ago by the Idaho Legislature. The code states that, "all single family homes and multiple family dwellings up to two units are exempted from the provisions of the International Residential Code that require automatic fire sprinkler systems to be installed." He said the law had not changed.

MOTION: **Senator Ward-Engelking** moved to adopt **Docket No. 18-0150-1301**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 33-0101-1301 **Relating to the Rules of the Idaho Real Estate Commission** was presented by Jeanne Jackson-Heim, Real Estate Commission (Commission). **Ms. Jackson-Heim** said the pending rule was adopted as a temporary rule on June 13, 2013 and noted that the text of this new rule began on page 260. Last year, the Commission formed a work group with representatives from the Idaho Association of Realtors and real estate educators to review the continuing education requirements for licensees. This pending rule is one outcome of the joint realtor and Commission work group. The new language has been reviewed by and has the approval of the Idaho Association of Realtors. The first change in the initial paragraph slightly expands the purpose of continuing education to include professionalism and business proficiency of the licensee. **Ms. Jacson-Heim** said the second change appeared on the following page and added "business success" as an approved topic for continuing education. The Commission has been certifying courses under this rule change since June, and they have heard many positive comments from the licensees, as well as real estate schools and instructors, who are appreciative of having the benefit of some additional options for continuing education.

MOTION: **Senator Lakey** moved to adopt **Docket No. 33-0101-1301**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PASSED GAVEL: Vice Chairman Patrick passed the gavel back to Chairman Tippets.

ADJOURNED: There being no further business, **Chairman Tippets** adjourned the meeting at 2:45 p.m.

Senator Tippets
Chair

Linda Kambeitz
Secretary