

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 11, 2014

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Tippetts, Vice Chairman Patrick, Senators Goedde, Guthrie, Martin, Lakey, Schmidt and Ward-Engelking

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.

CONVENED: **Chairman Tippetts** called the meeting to order at 1:30 p.m. He welcomed all and went over the agenda.

MOTION: **Vice Chairman Patrick** moved to approve the Minutes of January 28, 2014. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

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

DOCKET NO. 28-0207-1301 **(NEW CHAPTER) Rules Governing the Administration of the Idaho Global Entrepreneurial Mission (IGEM) Grant Program** beginning on page 243 of the Pending Rule Book, was presented by Jeff Sayer, Director, Department of Commerce (Department). **Director Sayer** explained the IGEM Grant Program funds commercialization grants which supports university and industry research partnerships for the purpose of enhancing technology transfer and commercialization of research and technologies developed at the universities to create high-quality jobs and new industries in the private sector in Idaho. The Department is experiencing positive momentum for the IGEM program with university and business leaders coming together with the State.

Director Sayer said the IGEM Council (Council) will release a Request for Proposal (RFP) outlining the process and requirements for eligible applicants to apply for IGEM Grant Program awards. The RFP will include requirements for performance measures and reporting. In selecting IGEM proposals for award, the Council will give greater weight to proposals that partner with Idaho-based entities. **Director Sayer** said that the Department has established an investment committee, which is overseen by the Council. The investment committee (Committee) consists primarily of business leaders. The universities have been asked to step aside from the Committee because of a possible conflict of interest. The Department has staffed the Committee with some very high-end business leaders and investors who can assure that the Department is extending solid grants. The Committee looks at the proposals submitted to the Council for final approval. One of the things the Department thought was important was the RFP process. Preference is given to applicants who have Idaho industry partners. **Director Sayer** went on to say the important piece was insisting that the grants have a matching component from industry partners. This has created an interesting transition for university researchers to know that in order to qualify, they have to have an industry partner and a match requirement. The match may be monetary or in-kind as established in the RFP. He said that funding for projects may be terminated by the Department at any time for failure to meet the program requirements set out in the RFP or for

the misuse of IGEM funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGEM funds and return all unspent IGEM funds to the Department. Any commercialization revenue generated through the IGEM University Research Initiative and by IGEM funded research faculty will be distributed as outlined in Idaho Code § 67-4731. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred, and the documentation provided by the grantee as required by these rules.

He said there are no changes to the pending rule and it is being adopted as originally proposed. There is no negative fiscal impact to the general fund.

Senator Lakey asked if the matching requirement amount, varied and whether there was an effect on the weighting of the decision-making process. **Director Sayer** responded that the matching requirement does affect the decision-making process. The Department has kept the matching amount flexible because in some situations, industry partners like to contribute in-kind matches. They also have people putting in cash. One of the transitions they are working through right now is calibrating what the weights should be and, clearly, those who are bringing in cash are scoring much higher in the process.

Chairman Tippetts stated that Section 400 of the rule mentions that the Department can terminate a project for failure to meet the program requirements or for the misuse of IGEM funds. He added that any unexpended funds have to be returned to the Department. He asked if there was a provision to recover funds in the case of misuse of funds, not just returning what had not been spent, but recovering something that had been spent inappropriately. If not, is that something that would be advisable to have? **Director Sayer** said that is a good point, and his Department is very cognizant of the need to monitor the grant and research activities. He said the Department is requiring a quarterly report from the researchers on the status of their project. The Department relies heavily on the vice presidents of research from each university. The intent is to catch any misuse or research that has essentially gone idle and get those monies back. He said that was something they could take under advisement. The Department has not encountered any misuse yet.

Vice Chairman Patrick asked if Director Sayer worked with the state boards as well as with the universities, or directly with the university. **Director Sayer** replied the Department works directly with university representatives and there is a member of the state board on the council. Most of the Department's work is done with the university and the vice president of research.

Senator Guthrie asked if Director Sayer could go over the parameters for the grants and whether there is a minimum, maximum or a range. **Director Sayer** replied that the process was intentionally competitive. This was the biggest announcement to the universities. As the Department went through this process, they decided they were not going to divide the money up by three and send it to the universities. The Department has put people on the committee who are stringent about how grant money is to be spent, and that yields a strong rate of return for a viable project. There is not a minimum or a maximum range. During the second round of grant proposals, out of 12 proposals that were submitted, only 1 was invited back to be a finalist. The message the Department wanted to send was that these grants were not meeting the criteria because they either needed stronger industry relationships, stronger industry partners or they needed to be closer to commercialization before the money would be expended. **Director Sayer** said the competitive process is fairly thorough. What the Department found after the first round of grants were funded, was the universities oftentimes had larger projects that required larger amounts of money. The Department is asking the universities to reapply for another round and to ask for \$200,000 to \$300,000. Instead of investing in ten grants, the focus will be narrowed.

Senator Lakey asked Director Sayer if the goal was to have one application period for an Request for Proposal (RFP). He also asked if the Department wanted to give out multiple grants or keep funds fluid? **Director Sayer** said that last year, because it was the end of the fiscal year, there was one grant cycle and their objective was to distribute the money before the end of the fiscal year. This year the grant cycle was initiated in order to have multiple grant cycles if necessary. There is no set structure, but the intent is to have as many cycles as needed, and the Department has planned on having a more consistent structure. The idea would be to have at least two grant cycles during the year. We want to be responsive to projects as they surface and make sure the funds are available. **Senator Lakey** asked if the goal was to have a pool of funds to distribute every year and if there were funds that carried over. **Director Sayer** replied he would love to roll over the funds, but he said we do not have that luxury inside of the state appropriations system. We have \$950,000 in grant money that comes through commerce and the objective is to deploy those funds by the end of the year.

MOTION:

Senator Goedde moved to adopt **Docket No. 28-0207-1301**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
28-0301-1301**

(NEW CHAPTER) Rules of the Idaho Opportunity Fund beginning on page 248 of the Pending Rules Book, was presented by Jeff Sayer, Director, Department of Commerce (Department). He said there are no changes to the pending rule and it is being adopted as originally proposed. There is no negative fiscal impact on the State General Fund. H100 formally established the Idaho Opportunity Fund in the Idaho State Treasury. In fiscal year (FY) 2014 the Idaho Opportunity Fund will be funded as follows: \$400,000 ongoing appropriation in the Department's budget (General Fund); and a \$3 million onetime funding in the Department's budget (General Fund).

These comprehensive rules will govern the Idaho Opportunity Fund as enacted in H100. H100 formally established the Idaho Opportunity Fund and added five new sections of Idaho Code (§ 67-4732 through § 67-4736). These rules are necessary to outline the specific parameters for the award and disbursement of Idaho Opportunity Fund grants to cities and counties that may be eligible for these funds.

Director Sayer said the local government must provide an allowable local match as cash, in-kind services, fee waivers (such as development impact fees), donation of assets, the provision of infrastructure or a combination thereof. The match must represent a material commitment from the local government that is commensurate with the local government's financial condition. The Director has the authority to approve or waive other forms of local match requirements. He went on to say there are two "sister" agreements. One is the local government grant agreement which is entered into between the Department and one or more local governments. The other "sister" agreement is between the community and the company. This was done to stay within the Idaho constitutional boundaries, so that we are not giving money directly to a company. Company performance agreements will be entered into between one or more local governments and a grantee business. Many of the provisions of the agreements are parallel to one another. The intent of the Department is to have a three-way negotiation and agreement among the local governments, businesses, and the Department.

Funds will be disbursed from the Opportunity Fund to the local government as defined in the local government grant agreement and after the local government has demonstrated that the grantee business has complied with the terms of the company performance agreement. The Department works very closely with each entity in this process.

The Director will report to the Economic Advisory Council quarterly on the grant activity and performance. An annual report regarding the state of the Opportunity Fund, will be published no later than September 30 of each year. The report will contain information on the commitment of funds, disbursement and use of the funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created. The annual report will be made available to the Governor, the Joint Finance-Appropriations Committee (JFAC) and the public.

Senator Schmidt asked about the nature of the annual report that Director Sayer will give to JFAC. **Director Sayer** said their intent was to be completely transparent so they can reinforce the trust they want to build. He said what they showed in JFAC was a series of five or six deals that were in the process of establishing agreements with businesses and local governments. The Department has one or two final projects that will be closing in the next few weeks with others in the negotiation process. The challenge the Department faces is that they are making verbal commitments to these projects, subject to final arrangements and negotiations. Monies are being allocated from the \$3 million budget, with final documentation.

Senator Guthrie asked why this rule referred to the Director exclusively. He asked if the exclusivity was intentional or if there were other players involved. **Director Sayer** said the rule was purposely designed to say "the Director exclusively" and that was the biggest reason he was extending his thank you to the Committee for having that trust. If the Department had asked for \$30 million in the Opportunity Fund, the Committee would see the Department immediately wanting oversights and mechanisms through the Economic Advisory Council. Given the rapid demand they expected for the Opportunity Fund, the Department asked for the support of the Committee so the Department could be responsive. The Department was not sure how fast the deals were going to move forward and they felt like they needed to respond and adapt as situations arose. Oversight will begin once the grants start to be implemented.

Senator Schmidt commented that the beginning of the rule was skipped over where it said there was no appeal. He said that transparency was very important. **Director Sayer** replied that was not lost on him, he understood the burden, he will be careful and the Committee will see full transparency.

MOTION:

Senator Lakey moved to adopt **Docket No. 28-0301-1301**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
28-0304-1301**

(CHAPTER REPEAL) Rules of Business and Jobs Development Grant beginning on page 255 of the Pending Rules Book, was presented by Jeff Sayer, Director, Department of Commerce (Department). **Director Sayer** said the grants were issued through the Business and Jobs Development Fund to provide funding to Idaho cities and counties for infrastructure development and to support the retention of existing businesses and recruiting of new businesses to the State. In compliance with H100, the Department has adopted a new temporary rule. The new chapter, Idaho Administrative Procedures Act (IDAPA) 28.03.01, "Idaho Opportunity Fund," provides for the same funding with new and additional parameters. This chapter is repealed in its entirety.

MOTION: **Senator Schmidt** moved to adopt **Docket No. 28-0304-1301**. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0110-1301 **Rules Governing Certification of Approval of Electrical Products and Materials** beginning on page 10 of the Pending Rules Book, was presented by Steve Keys, Deputy Administrator, Division of Building Safety (Division). **Mr. Keys** said this docket stemmed from many comments and requests from Idaho industrial concerns requesting a re-evaluation of the existing requirements for the field evaluation of industrial machinery. The existing rule provides very limited options for approval on unlisted, unlabeled industrial machinery in Idaho. Given the revolution in manufacturing and the constant development and employment of new technologies, the existing language was restricting the use of new technology.

Under the new language, field evaluations would be done in accordance with recognized criteria, but the potential provider base is expanded to include registered professional electrical engineers who are not directly involved with the project in question. The consensus is that these engineers have the expertise to perform the service at a lower price than is currently available to the owners of the machinery. The Division believes the safety of the public remains protected with this rule, while barriers to Idaho manufacturers in competitive markets are potentially reduced. The docket also clarifies the ability of the authority having jurisdiction to perform the field evaluation. Previously, inspectors employed by local jurisdictions, were not empowered to conduct field evaluations.

MOTION: **Senator Ward-Engelking** moved to adopt **Docket No. 07-0110-1301**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0301-1301 **Rules of Building Safety - Adoption of 2012 International Residential Code and 2012 International Energy Conservation Code** beginning on page 14 of the Pending Rules Book, was presented by Steve Keys, Deputy Administrator, Division of Building Safety (DBS). **Mr. Keys** said this docket reflects the adoption by the Building Code Board (Board) of amendments to the 2012 International Building Code (IBC), the adoption of the 2012 International Residential Code (IRC) with amendments, the adoption of the 2012 International Existing Building Code (IEBC) without amendments, and the adoption of the 2012 International Energy Conservation Code (IECC) with amendments. The adoption of these new versions of the building codes and amendments to the codes is the result of a very comprehensive collaborative process involving a multitude of interested parties known collectively as the "Building Code Collaborative" (Collaborative). Like the electrical and HVAC code collaboratives, this group worked long and hard through multiple meetings to arrive at a consensus reflecting a baseline requirement where all could agree. The formation of the Collaborative and its initial success led to the formation of the other groups. **Mr. Keys** said, with the chair's permission, he would defer to Mr. Andrew Bick, the Chairman of the Building Code Board and Mr. Arlan Smith the DBS Building Program Manager, to address any technical questions the Committee may have.

Senator Lakey thanked Mr. Keys for citing other codes and dates and asked if the 2012 code was the most recent. **Mr. Keys** said "yes".

MOTION: **Senator Guthrie** moved to adopt **Docket No. 07-0301-1301**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0301-1302**

Rules of Building Safety - Amending the International Residential Code by Adding Alternate Method of Bracing Walls, beginning on page 25 of the Pending Rules Book, was presented by Steve Keys, Deputy Administrator, Division of Building Safety (DBS). **Mr. Keys** said this docket, again from the Building Code Board (Board) puts in place a separate amendment to the 2012 IRC, allowing an alternative methodology for wall bracing. The Board decided to run this docket separately to assure that adoption of the code would not be adversely affected should opposition to this amendment become significant. **Mr. Keys** said he would defer to the technical experts to address any technical questions the Committee may have.

Vice Chairman Patrick asked Mr. Keys to explain the term "underlying bracing". Mr. Keys deferred to Jason Blais, City of Boise and a member of the Idaho Code Board. **Mr. Blais** explained underlying bracing was another option and outlined simplified methods of bracing a house. Included is sheeting a house and the percentages of sheeting and whether hold downs are needed. In the current code, the bracing provisions changed and are over-restrictive. By simplifying this area of the new code, this allows more options for designers and builders.

Senator Lakey asked Mr. Blais to explain the options outlined on page 29, section 2(l) wall bracing. **Mr. Blais** said R602.10 was the more complicated option and would only apply to the high seismic areas of the State. He said the other two options will be replaced with "wall buildings shall be braced in accordance with this section, or when applicable section R602.12, or the most current edition of APA System Report SR-102 as an alternate method". This option would apply in the less seismic areas of the State, which would allow for a more simplified method of bracing. **Senator Lakey** asked about the American Plywood Association (APA)-Engineered Wood Association System Report SR-102. He was concerned that this was not a specific part of code. **Mr. Blais** answered this was not code, but a published industry document. He indicated that this is an update to make things cleaner. The system report mirrors what the wall bracing R602.12 says, but there are a couple of minor options. There is a system report that is updated consistently throughout the year.

MOTION:

Senator Guthrie moved to adopt **Docket No. 07-0301-1302**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0301-1303**

Rules of Building Safety - Amending the International Residential Code to Allow Owner-Occupied Lodging House Occupancies With Three or Fewer Guest Rooms to Be Constructed or Remodeled beginning on page 32 of the Pending Rules Book, was presented by Steve Keys, Deputy Administrator, Division of Building Safety (DBS). **Mr. Keys** said this docket amends the International Residential Code (IRC) by modifying an existing exception to Section R101.2. This changes the code requirements by allowing owner-occupied lodging houses, most commonly known as bed and breakfasts, with three or fewer guest rooms, to be constructed in accordance with the IRC for one- and two-family dwellings. The affected structures must install smoke alarms and carbon monoxide alarms as required by the IRC in one and two family occupancies. The code provision prior to amendment would allow owner-occupied lodging houses with five or fewer guest rooms, but would also require a fire sprinkler system. There was an error made in the promulgation of this rule, in that the limitation should have reflected five or fewer guest rooms instead of three. The Building Board (Board) intends to run a temporary and pending rule after sine die to correct the error.

MOTION:

Senator Goedde moved to adopt **Docket No. 07-0301-1303**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0301-1304**

Rules of Building Safety - Amending the International Residential Code by Deleting a Section beginning on page 39 of the Pending Rules Book, was presented by Steve Keys, Deputy Administrator, Division of Building Safety (DBS). **Mr. Keys** said this docket amends the IRC by deleting Section R501.3 and its exceptions. This section pertains to fire protection of floors, and is a new section of code. Mindful of its obligation to protect public safety, the decision was made by the Building Board (Board) to move forward with code adoption with the fire protection elements intact. The amendment was done separately to allow any opposing parties the ability to champion or oppose the specific amendment. The amendment deletes language that would require ceilings in most unfinished basements to be drywalled and taped. The language found in the code was added at the behest of firefighters concerned about the possibility of collapsing floors in the event of fire. The typical engineered flooring joist burns through much faster than the traditional 2' x 10' dimensional lumber joist, so the drywall was added for fire resistance. A copy of the code section is provided as a handout (see attachment 1). The Board feels that requiring the finishing of the ceiling is cost prohibitive and that the ceiling would have to be removed and redone if the basement were ultimately finished. **Mr. Keys** indicated this rule applied mostly to eastern Idaho.

Senator Schmidt asked for a clarification of the adoption and incorporation by reference of the document, which deleted a section and if that meant that engineered floors did not have to have a sheetrock finish. **Mr. Keys** responded, "yes".

MOTION: **Senator Schmidt** moved to adopt **Docket No. 07-0301-1304**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED GAVEL: Vice Chairman Tippetts passed the gavel back to Chairman Tippetts.

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 2:16 p.m.

Senator Tippetts
Chair

Linda Kambeitz
Secretary