

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 10, 2017

SUBJECT	DESCRIPTION	PRESENTER
RULES REVIEW	Assignments	Vice Chairman Jim Guthrie

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick

Vice Chairman Guthrie

Sen Martin

Sen Lakey

Sen Thayn

Sen Souza

Sen Anthon

Sen Ward-Engelking

Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz

Room: WW46

Phone: 332-1333

email: scom@senate.idaho.gov

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 10, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

ABSENT/ EXCUSED: Senator Lakey

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 Patrick** called the meeting to order at 1:30 p.m. and welcomed everyone to the first meeting of the Commerce and Human Resources Committee (Committee).

INTRODUCTION: **Chairman Patrick** introduced the new page, Rayanna McClean, and asked all committee members to introduce themselves. All Senators stated their name, the district they represent and the town in which they reside. **Chairman Patrick** asked Committee Secretary, Linda Kambeitz, to tell the Committee a little about herself. **Chairman Patrick** asked page, Rayanna McClain, to tell the Committee what high school she attended and give some background. **Rayanna McClain** said she attends Rockland High School, is the oldest of four children, and is involved in student government. When she found out about the Page Program, she decided to apply. She stated that Vice Chairman Guthrie was her sponsor. She said she was excited about being a page and to learn about the Legislature.

Chairman Patrick introduced the new senators on the Committee: Senators Anthon, Souza, and Burgoyne.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to assign the rules.

RULES REVIEW: **Vice Chairman Guthrie** referred to the spreadsheet that each Senator had and said that Senators could trade rules if they felt they had more expertise in a particular area. He said he assigned five rules to each Committee member. He said the State Legislature annually reviews the rules that State agencies had created to make sure they complied with the Legislature's intent.

Senator Anthon remarked that due his background in law, he was interested in the rule pertaining to the Idaho Global Entrepreneurial Mission (IGEM). **Senator Burgoyne** said he was interested in rules that addressed unemployment insurance.

All rules were assigned.

PASSED THE GAVEL: Vice Chairman Guthrie passed the gavel to Chairman Patrick. **Chairman Patrick** reminded the Committee to attend the Change in Employee Compensation Committee (CECC) meeting, which was starting at 2:30 p.m.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 1:57 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 12, 2017

SUBJECT	DESCRIPTION	PRESENTER
Docket No. <u>09-0135-1601</u>	Unemployment Insurance Tax Administration Rules	Larry Ingram, Unemployment Compliance Chief, Dept. of Labor
<u>12-0110-1601</u>	Rules Pursuant to the Idaho Residential Mortgage Practices Act	Michael Larsen, Consumer Financial Bureau Chief
<u>24-0801-1601</u>	Rules of the State Board of Morticians	Mitchell Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses
<u>24-2201-1601</u>	Rules of the Idaho State Liquefied Petroleum Gas Safety Board	Mitchell Toryanski
<u>24-2501-1601</u>	Rules of the Idaho Driving Business Licensure Board	Mitchell Toryanski
<u>59-0201-1601</u>	Rules for the Judges' Retirement Fund	Don Drum, Executive Director, PERSI
<u>59-0201-1602</u>	Rules for the Judges' Retirement Fund	Don Drum

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 12, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting to order at 1:31 p.m. He began the meeting and indicated he would pass the gavel as soon as Vice Chairman Guthrie arrived from another function. He introduced the first presenter.

DOCKET NO. 09-0135-1601 **Unemployment Insurance Tax Administration Rules. Larry Ingram**, Unemployment Compliance Chief, Department of Labor (DOL), presented this docket. He stated this rule was to clarify that payments by a partnership to its partner or by a sole proprietorship to its owner are excluded as wages for purposes of unemployment insurance tax. The rule adds an additional exclusion to wages. This is currently how payments by a partnership to its partners or payments by a sole proprietorship to its owner should be handled. Providing this in a rule would help clarify this for partners, partnerships and owners of a sole proprietorship business.

The DOL conducted negotiated rulemaking and there was no opposition. There is no fiscal impact to the state.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

DISCUSSION: **Senator Burgoyne** said that in his understanding of partners and partnerships, they can elect unemployment insurance coverage and in order to do that they would need to have wage credits. The only way to get wage credits is if the share of partnership income goes to the partner and that is counted at least in some degree as wage credits. He wanted to know if there was a rule or a statute against this distribution. **Mr. Ingram** said that Idaho Code § 72-1352(3) states it is a voluntary election of coverage, which this would fall under. The code specifically says "any employer for whom services are performed in the State, which do not constitute covered employment, may file with the director a written request, that these services be covered." **Mr. Ingram** explained that in this case, the sole proprietorship or the partner is actually the employer and the request would be denied. These are self-employed individuals and in essence what would be created is the opportunity for these individuals to cover themselves with unemployment. **Senator Burgoyne** clarified what Mr. Ingram was saying, which was the statute precludes the possibility of a partner or other self-employed individual from electing coverage. **Mr. Ingram** replied that was correct.

Senator Martin asked Mr. Ingram to elaborate on the idea there was no response or opposition to this rule by the individuals that this is affecting. He wanted to know if they were accepting and understanding of this rule. **Mr. Ingram** said most sole

proprietorships and partners know that their earnings and profits are not covered for unemployment insurance purposes. He indicated that approximately 80 percent of employers have corporations for which this rule does not apply, which leaves a very small percentage of the employer population. On occasion, a query is run on wage credits by the DOL based on ownership. Approximately 10 or 20 employers are found and the DOL talks to the employer and gives them a refund.

MOTION: **Senator Martin** moved to adopt **Docket No. 09-0135-1601**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 12-0110-1601 **Rules Pursuant to the Idaho Residential Mortgage Practices Act.** **Michael Larsen**, Consumer Financial Bureau Chief, Department of Finance (Department), presented this docket. He stated this pending rule updates references to incorporated federal laws and regulations (Truth in Lending Act (TILA) and Regulation Z) as well as the Real Estate Settlement Procedures Act (RESPA) and Regulation X). He stated there are no changes to the pending rule and it is being adopted as originally proposed. Negotiated rulemaking was not conducted because the rule is simple in nature as it merely updates references to incorporated federal laws and regulations. There is no fiscal impact to the State. The Department has received no opposition.

Senator Martin asked if the date changed for Regulations Z and X. **Mr. Larsen** said the date in the rules at the state level was specific, but not at the federal level. **Senator Martin** asked that by agreeing to this rule if the federal government made changes, would the State of Idaho be obliged to make changes as well. **Mr. Larsen** replied the state was not committed to make changes until the Department asks for that commitment. The state, by updating the rules and laws, is in compliance with federal requirements.

TESTIMONY: **Terry Otten**, representing the Idaho Association of Mortgage Professionals (Association), testified in support of the proposed rule. The Association has a good working relationship with the Department. The Department informs the Association of new rules and regulations, advises and asks for opinions before the Department moves forward. **Vice Chairman Guthrie** thanked Ms. Otten for her input. **Chairman Patrick** commented he worked with the Department on financial issues and complimented the Department for working well with him.

MOTION: **Senator Anthon** moved to adopt **Docket No. 12-0110-1601**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 24-0801-1601 **Rules of the State Board of Morticians.** **Mitchell Toryanski**, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), presented this docket. He stated the 2016 Legislature passed **H 367**, which extended the length of time a resident trainee could practice from two to three years under a permit. Rule 250 is being amended to reflect current law by changing the limit of time that a resident trainee can hold a permit from two years to three years. Negotiated rulemaking was not conducted because the rule is being amended to comply with the new law. This rule was discussed in a noticed, open meeting of the IBOL Board. There is no fiscal impact to the state.

MOTION: **Senator Burgoyne** moved to adopt **Docket No. 24-0801-1601**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-2201-1601**

Rules of the Idaho State Liquefied Petroleum Gas Safety Board. Mitchell Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), presented this docket. He said the IBOL Board is amending the rule to incorporate by reference the 2017 edition of publication 58 of the Liquefied Petroleum Gas Code from the National Fire Protection Association (NFPA) to keep abreast of the most current safety standards.

Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the IBOL Board. There is no fiscal impact to the state.

Senator Thayn discussed the changes that have taken place over the last 16 years with Mr. Toryanski, some of which have been minute and some have been in response to changes in technology. **Mr. Toryanski** stated that one change defined separation distances between liquefied petroleum gas (LPG) storage and other materials. The scientific method was used to determine that if there was too much snow, the LPG would not be damaged. Changes in the rule clarifies the position of shut-down stations not being located too close to tanks.

Senator Lakey commented that even though negotiated rulemaking was not conducted, notices were sent to all who would be affected. **Mr. Toryanski** said there were open meeting discussions and the public received notice. Postcards were mailed to all licensees, dealers, and owners.

Senator Burgoyne remarked he was comfortable with supporting the rule. He asked that a spreadsheet of changes be provided to the Committee. **Mr. Toryanski** said he would provide the information.

MOTION:

Senator Martin moved to adopt **Docket No. 24-2201-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-2501-1601**

Rules of the Idaho Driving Business Licensure Board. Mitchell Toryanski Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), presented this docket. He explained the Board of Driving Businesses (Board) is amending its rules to clarify that the list of current instructors employed must be submitted for original and reinstatement applications. The list must be kept current and made available upon request of the Board. It also clarifies that while a driving business is allowed to use a third party provider for on-line classroom instruction, the licensee is responsible for ensuring that the content meets the requirements approved by the Board. The rule outlines when the business licensee will send performance information to the Department of Motor Vehicles (DMV) and it updates language as to who may provide a medical examination and what document must be submitted to the Board for verification. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board. No comments were received. There is no fiscal impact to the state.

Senator Lakey and **Mr. Toryanski** discussed the addition of the timeframe requirements due to instructors not submitting course completion information to the DMV in a timely way. Information is now transmitted electronically.

MOTION:

Chairman Patrick moved to adopt **Docket No. 24-2501-1601**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0201-1601**

Rules for the Judges' Retirement Fund (JRF). **Don Drum**, Executive Director, Public Employee Retirement System of Idaho (PERSI), presented this docket. He said these rules apply to the JRF. The actuarial valuation for the JRF for the period ending June 30, 2015 reflected that the amortization period is above the maximum 25-year amortization period contained in statute. The PERSI Board (Board) has acted to adopt the rate increase as it is required to do to bring the amortization period to 25 years or less as required by Idaho Code § 1-2004 (A). The rate increase becomes effective July 1, 2017. There are no changes to the pending rule and it is being adopted as originally proposed.

Negotiated rulemaking was not conducted because negotiated rulemaking was not feasible as it would be inconsistent with the Board's need to bring the amortization rate to 25 years or less and with the Board's exclusive fiduciary responsibility for plan operations. Employer contribution rates will increase by 7.25 percent of salaries, beginning July 1, 2017. In other words, the employer rate will increase from 55.28 percent to 62.53 percent of salaries. The employee rate will increase from 10.23 percent to 11.57 percent of salaries. This will affect the general fund to the extent the contributions required of the employer (Supreme Court) are made from general fund dollars.

Director Drum pointed out this rule was a temporary rule last year and a pending rule this year. He wanted to avoid having another temporary rule.

Senator Thayn said he thought something in the rule was supposed to be stricken. **Vice Chairman Guthrie** asked for clarification. **Director Drum** said this rule was exactly the same as the temporary rule from last year and this pending rule would become permanent. **Senator Thayn** asked Director Drum what the Board wanted the Committee to do with the rule. **Senator Lakey** said Senator Thayn had a good point about the language and that the language could be viewed as conflicting if not stricken. Senator Lakey referred to the Employer Contribution Rate (Rule 300) and stated the first sentence was redundant. **Vice Chairman Guthrie** said he concurred. **Director Drum** said he conferred with the Deputy Attorney General assigned to PERSI, but she said she thought the rule as written would be acceptable. **Director Drum** indicated the language in the rule could be stricken and the rule could then be resubmitted to the Committee. **Dennis Stevenson**, Administrative Rules Coordinator, Department of Administration, indicated this could not be done this year. **Director Drum** said the Board would be out of compliance with the law. **Chairman Patrick** suggested the rule be revised and submitted in 2018. He said the current rule accomplishes what is needed. **Senator Lakey** said he concurred. He remarked the language was confusing, but the Committee could adopt the rule with the understanding that Director Drum brings the rule back next year.

Senator Martin said assuming the employer will absorb the additional cost, he was curious about the employee contribution and wanted to know if the multiplier was of their salary. **Director Drum** said it was and this was a proposal the Board has been working on with the judges. **Senator Martin** stated the amount taken out was a little over 1 percent of salary. **Director Drum** confirmed that amount was correct.

MOTION:

Senator Lakey moved to adopt **Docket No. 59-0201-1601**, with the caveat the language would be revised and the rule resubmitted next year. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0201-1602**

Rules for the Judges' Retirement Fund. Don Drum, Executive Director, Public Employee Retirement System of Idaho (PERSI), presented this docket. He said this rule added a new subsection .05 to rule 101 to make clear that the Internal Revenue Code (IRC) section 415 limitation on benefits applies to the combined benefits from all plans if a member participates in two or more qualified defined benefit plans maintained by the employer (or a predecessor employer). This change is being made pursuant to requirements of the Internal Revenue Service (IRS) pursuant to the receipt of the determination letter received in December of 2015. The current section 415(b) limit (for 2016) is \$210,000. There are no changes to the pending rule and it is being adopted as originally proposed. Negotiated rulemaking was not conducted because it would be inconsistent with the Board's exclusive fiduciary responsibility for plan operations. There is no fiscal impact to the state.

Vice Chairman Guthrie asked about the withdrawal limit of \$210,000 a year. **Director Drum** indicated that \$210,000 is the limitation of what can be drawn from two separate funds. **Senator Guthrie** wanted to know if there were individuals outside of the limiting parameters, were they "grandfathered" in? **Director Drum** said that basically by law there is a limit of \$210,000, but there is no one doing that. The purpose of this law is to make retirees aware of the IRS limitations.

MOTION:

Senator Thayne moved to adopt **Docket No. 59-0201-1602**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:25 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 17, 2017

SUBJECT	DESCRIPTION	PRESENTER
<u>DOCKET NO.</u> <u>09-0130-1601</u>	Unemployment Insurance Benefits Administration Rules	Joshua McKenna, Bureau Chief, Department of Labor
<u>48-0101-1601</u>	Rules of the Idaho Grape Growers and Wine Producers	Roger Batt, Idaho Grape Growers and Wine Producers
<u>07-0205-1601</u>	Rules Governing Plumbing Safety Licensing	John Nielsen, Plumbing and HVAC Program Manager, Division of Building Safety
<u>07-0207-1601</u>	Rules Governing Civil Penalties	John Nielsen
<u>07-0701-1601</u>	Rules Governing Installation of HVAC Systems	John Nielsen
<u>10-0101-1601</u>	Rules of Procedure	Keith Simila, Executive Director, Idaho Professional Engineers and Land Surveyors
<u>10-0101-1602</u>	Rules of Procedure	Keith Simila
<u>10-0102-1601</u>	Rules of Professional Responsibility	Keith Simila
<u>RS24825</u>	Relating to Mediation of Disputes	Keith Simila
<u>RS24827</u>	Relating to Basis of Bearing Must Have Two Existing Monuments	Keith Simila

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 17, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the Senate Commerce and Human Resources Committee (Committee) meeting to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to introduce the presenters for the rules review being heard.

DOCKET NO. 09-0130-1601 **Unemployment Insurance Benefits Administration Rules. Joshua McKenna**, Benefits Bureau Chief, Department of Labor (Department), presented this docket. This current rule is being amended to remove references to outdated processes for handling claims and references to local offices. The change also would remove a section no longer required of a claimant coded (Code O) as attached to their employer.

This rule change removes reference to paper card reporting, reporting through a local office, and local office scheduling. Claims are now handled at the claim center or over the Internet. The change also removes the requirement for claimants attached to their employer to do more than maintain contact with their employer.

Negotiated rulemaking was conducted. There is no fiscal impact to the state.

DISCUSSION: **Senator Lakey** wanted to know if Code O was defined elsewhere other than on page 193. **Mr. McKenna** explained the code was an internal code used for the Department's computer system and there was no other place in the rule where it was defined. He stated that a Code O claimant must maintain regular contact with their employer(s) or union.

Senator Burgoyne pointed out that negotiated rulemaking was conducted and there were no comments. He said he understood that employees are job attached and on a temporary layoff. He said he thought this rule was consistent with what employers wanted.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 09-0130-1601**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
48-0101-1601**

Rules of the Idaho Grape Growers and Wine Producers. Roger Batt, representing the Idaho Grape Growers and Wine Producers Commission (Commission), presented this docket. He said the passage of H 456 by the Idaho Legislature amended Idaho Code § 54-3610, and removed statutory assessment language that was inconsistent with and duplicative to the Idaho Grape Growers and Wine Producers Commission's administrative rules that were approved by the Idaho Legislature in 2010 with respect to grapes and grape juice purchased from out-of-state producers for the production of wine in Idaho. Omission of this duplicative language was inadvertently overlooked by industry prior to the 2016 legislative session. By statute, the Commission is charged with setting forth the assessment calculations in rule for Idaho's grape and wine industry. In reviewing the current assessment structure for grapes and grape juice, Idaho wineries have brought forth the request to simplify the assessment structure for future assessment cycles.

Mr. Batt stated the current assessment structure has proven confusing for industry members and requires them to convert wine grapes purchased in tons into gallons produced before applying assessment payments. In turn, the Commission has to reconvert gallons to tons in order to determine total tons harvested in Idaho for that year. The temporary and proposed rule streamlines the assessment process by requiring both wineries and vineyards to pay assessments based on tons rather than any conversion to gallons, as well as removes the need for the Commission to convert gallons to tons for proper harvest numbers.

Mr. Batt reported that no change to the assessment rate is proposed and the Commission will not experience a fiscal impact. The rule may allow wineries to reduce the time involved in submitting assessments, while reducing costs. Voluntary tax was changed from .04 cents per gallon to \$7 per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. A \$7 tax per ton of grapes is assessed for purchases by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. A .04 cent tax was assessed for grape juice purchased by producers outside Idaho during the previous calendar year.

Negotiated rulemaking was conducted.

MOTION:

Senator Souza moved to approve **Docket 48-0101-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0205-1601**

Rules Governing Plumbing Safety Licensing. John Nielsen, Plumbing, Heating, Ventilation, and Air-Conditioning (HVAC) Program Manager, Division of Building Safety (DBS), presented this docket. The construction industry in Idaho is facing a critical shortage of skilled workers, including plumbers. As it currently stands, many plumbers come to Idaho from states that do not require schooling, which leaves them unable to qualify for testing as a journeyman. This rulemaking change would allow for such a person to qualify for a journeyman's exam by demonstrating they have eight years of plumbing experience defined as 16,000 hours, in lieu of the current requirement of four years' experience and four years of schooling.

Mr. Nielsen explained negotiated rulemaking was not conducted because the contents of this rulemaking related to the experience and education requirements for out-of-state plumbers who seek licensure as journeymen in Idaho. This proposal has been discussed at numerous Plumbing Board (Board) meetings over the past several years. Initially, a rule was established and approved by the Legislature in 2015 setting forth the licensure requirements; however, after further discussion with plumbing contractors, the Board determined to further revise the requirements for out-of-state applicants. This rule provides a benefit to Idaho plumbing contractors

who may need to hire journeymen who have plumbing experience acquired in another state, but who have not been required to perform schooling in that state. For those journeymen who have sufficient plumbing experience in the form of a minimum of eight years' experience working as a plumbing journeyman in the trade, this rule would allow them to be eligible to take the plumbing journeyman exam in Idaho. There is no fiscal impact to the state.

DISCUSSION: **Senator Martin** wanted to know if all of the work had to be performed in Idaho in order to qualify to take the journeyman's test. **Mr. Nielsen** said that not all of the hours had to be performed in Idaho and that experience could be from outside of the state.

Senator Burgoyne asked if the unions were in support of this change. **Mr. Nielsen** replied the unions were in support.

MOTION: **Chairman Patrick** moved to approve **Docket No. 07-0205-1601**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0207-1601 **Rules Governing Civil Penalties.** **John Nielsen**, Plumbing, Heating, Ventilation and Air Condition (HVAC), Program Manager, Division of Building Safety (DBS), presented this docket. Currently, plumbing contractors are exempt from a civil penalty for failing to pay for or obtain a plumbing permit prior to making a plumbing installation, as well as exempt from a civil penalty for failing to make corrections of plumbing installations when notified by the DBS. As a result, short of licensure discipline, there is no recourse available to the DBS if a contractor chose not to comply with the permitting and inspection requirements in statute or rule. This rulemaking puts contractors on equal footing with plumbing specialty contractors and homeowners who are already subject to civil penalties for the same violations.

Mr. Nielsen explained negotiated rulemaking was not conducted because the rulemaking is simple in nature. This rulemaking was discussed at several DBS Board meetings over the course of the last year, and there was no opposition. The rulemaking includes plumbing contractors among those who may receive a civil penalty for certain violations of the plumbing statutes and rules. There is no fiscal impact to the state.

DISCUSSION: **Senator Martin** wanted to know what the procedure or activity was that required a permit. **Mr. Nielsen** said anything defined as plumbing would require a permit. **Senator Martin** queried if that included interior work repairs. **Mr. Nielsen** said that replacing fixtures and moving plumbing would require a permit. **Senator Martin** asked that if a homeowner wanted to replace a fixture, would a permit be required. **Mr. Nielsen** said that was correct.

Senator Burgoyne asked **Mr. Nielsen** to explain how the rule was changed. **Mr. Nielsen** stated that currently, a plumbing contractor can perform work and not apply for a permit. When a violation occurs, a letter of violation is sent to the contractor. If the homeowner does not apply for a permit, a civil penalty is imposed.

MOTION: **Chairman Patrick** moved to approve **Docket No. 07-0207-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**, with **Senator Martin** requesting that he be recorded as voting nay.

**DOCKET NO.
07-0701-1601**

Rules Governing Installation of Heating, Ventilation and Air-Conditioning (HVAC) Systems. **John Nielsen**, Plumbing and HVAC Program Manager, Division of Building Safety (DBS), presented this docket. Currently, electric and gas conveyor pizza ovens are defined as a "Medium-Duty Cooking Appliance" which requires the installation of a Type I hood. These pizza ovens do not produce enough smoke and grease to justify a Type I hood. Accordingly, by removing pizza ovens from the definition of "Medium-Duty Cooking Appliance" and redefining them as a "Light-Duty Cooking Appliance," only a Type II hood would be required to be installed. This is less expensive than a Type I hood and the installation requirements are less restrictive. Additionally, some manufacturers are already selling the ovens with Type II hoods as a single unit. These would not be allowed under the current code.

Finally, the DBS would like the ability to produce written interpretations of the rules in the event that it is advisable to do so in order to provide clarity or direction to those making HVAC installations. Such written interpretations would be available for public inspection and copying. There is no fiscal impact to the state.

DISCUSSION:

Senator Lakey asked if the ability to produce written interpretations was binding. **Mr. Nielsen** said that was correct. **Senator Lakey** asked if the same authority was given to other agencies or entities for a comparison. **Mr. Nielsen** referred to the rule and said that in accordance with Idaho Code § 67-5201, this agency may have written statements that pertain to the interpretations of the rules of this chapter, or in compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the DBS offices.

Senator Burgoyne remarked it sounded like the interpretations were not rules, but interpretation by the agencies of the rules.

Senator Souza stated the light hoods are significantly less expensive than the Type I hoods and the barrier to accessibility or the government regulation is being reduced for a person who wants to start a pizza business. **Mr. Nielsen** said that was correct.

Senator Martin asked if this rule applied to a residential home and **Mr. Nielsen** replied that it did not.

MOTION:

Chairman Patrick moved to approve **Docket No. 07-0701-1601**. **Senator Souza** seconded the motion.

Senator Burgoyne said he would like to vote aye but he would be more comfortable if he had more evidence. He stated hood fires in restaurants are not uncommon. He has seen pizza ovens as hot as 1,200 degrees. **Mr. Nielsen** replied the Type II pizza oven was similar to conveyor-type pizza ovens. **Senator Burgoyne** said that was helpful.

Senator Lakey said he was uncomfortable with whether written interpretations were binding or non-binding. He asked what kind of precedent was there with other agencies. **Mr. Nielsen** said the rule is binding and the interpretation would be along the lines as how the DBS would enforce the rules.

The motion carried by **voice vote**, with **Senators Lakey, Anthon** and **Burgoyne** requesting that they be recorded as voting nay.

**DOCKET NO.
10-0101-1601**

Rules of Procedure. **Keith Simila**, Executive Director, Idaho Professional Engineers and Land Surveyors (IPELS), presented this docket. The amendments will update the education requirements for licensure as a professional land surveyor for applicants with unaccredited surveying or related programs. The update aligns Idaho's education requirements with those used in most states and broadens the course options for those with unaccredited or non-surveying four-year degrees. It provides more educational choices for those seeking to enter the land surveying profession.

Negotiated rulemaking was conducted. There is no fiscal impact to the General Fund or to the dedicated fund of the IPELS Board by this rule change.

DISCUSSION:

Senator Souza asked Mr. Simila to verify the intent of the rule changes to make it more generic, which would allow other institutions around the state to offer courses for students (other than Idaho State University (ISU)). **Mr. Simila** said this change offers a pathway for students to take courses anywhere.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 10-0101-1601**. **Senator Thayn** seconded the motion.

Senator Lakey asked if the number of required hours was the same or increased. **Mr. Simila** said the hours were in line with the national requirement and were increased from 27 to 30 hours or one additional course.

The motion carried by **voice vote**.

**DOCKET NO.
10-0101-1602**

Rules of Procedure. **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Land Surveyors (IPELS), presented this docket. The amendments will provide a new section defining the process for applying for a Restricted Professional Engineering (PE) license available to Ph.D. faculty teaching upper division engineering courses at an Idaho university.

Mr. Simila explained negotiated rulemaking was conducted. There is no fiscal impact to the General Fund or to the dedicated fund of the IPELS Board by this rule change.

DISCUSSION:

Senator Burgoyne and **Mr. Simila** had a conversation about the need for the rule. Those that teach need a license, but do not have to take an exam. The purpose was to direct how the IPELS Board will implement the rule.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 10-0101-1602**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
10-0102-1601**

Rules of Professional Responsibility. **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Land Surveyors (IPELS), presented this docket. The amendments will clarify the requirement to base opinions stated in reports, statements or testimony when founded on adequate knowledge of the facts, adequate competence, and honest conviction of the accuracy and propriety of the information. The existing rule does not include this requirement for documents and testimony unless serving as an expert witness. The rule change clarifies the intent of the IPELS Board.

Mr. Simila stated negotiated rulemaking was conducted. There is no fiscal impact to the state General Fund or the agency dedicated fund.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 10-0102-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

RS 24825: **Relating to Mediation of Disputes.** **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Land Surveyors (IPELS), said this Routing Slip (RS) authorizes the IPELS Board to require mediation of disputes between licensed land surveyors. The purpose is to reduce the prospect of litigation between property owners related to boundary disputes based on differing placement of corners by land surveyors. Land surveyors sometimes disagree on the validity of evidence used to locate property corners. This may create a dispute between land surveyors.

The amendment authorizes the IPELS Board to require that land surveyors make a reasonable effort at non-binding mediation to resolve their disputes. The use of a third-party mediator is intended to assist in evaluating the facts and working toward a resolution. Often, a land owner's only other recourse to resolve a dispute is litigation. The amendment is intended to assist in reducing the prospect of litigation by reaching a mediated settlement early in the process. There is no fiscal impact to the IPEL agency's dedicated fund or the General Fund.

DISCUSSION: **Senator Lakey** wanted to know whether mediation would be binding or non-binding and should this be classified in code. **Mr. Simila** said only courts can bind mediation and he assumed people would understand. He offered to revise the Statement of Purpose (SOP) in order to clarify and said arbitration would be binding, but not mediation. **Senator Lakey** stated he had no problem with printing the bill.

MOTION: **Senator Martin** moved to print **RS 24285**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 24827: **Relating to Basis of Bearing Must Have Two Existing Monuments.** **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Land Surveyors (IPELS), said the purpose of this Routing Slip (RS) is to clarify that the basis of bearing must have two existing monuments (angle relative to true north). Surveyors need to occupy two monumented corners in order to properly align the coordinates of different surveys. The basis of bearing enables succeeding land surveyors to set up on the same line to start their new survey. This creates maps that can be compared equally to each other, reducing the likelihood of misinterpreting the location of property boundaries. It is important that succeeding land surveyors be able to physically occupy the same two points in order for succeeding surveys to be comparable. The amendment clarifies that the two locations must physically be located on the ground and not calculated points or missing monuments. There is no fiscal impact to the IPELS agency or the General Fund.

DISCUSSION: **Senator Lakey** asked why the verbiage said between two corners or two monumental corners. **Mr. Simila** said all corners should have a monument. He said there can be a monument that is not on a corner. **Glenn Bennett**, IPELS Board member, said a corner marks a position and a monument marks a corner. The corner is the physical position and a monument marks that position. Surveyors need to be able to see the corners. **Senator Lakey** said he trusted Mr. Bennett's expertise.

MOTION: **Vice Chairman Guthrie** moved to print **RS 24287**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:30 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 19, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of January 10, 2017	Senator Guthrie
APPROVAL	Minutes of January 12, 2017	Senator Guthrie
DOCKET NO.		
<u>12-0108-1601</u>	Rules Pursuant to the Uniform Securities Act (2004)	Jim A. Burns, Securities Bureau Chief, Department of Finance
<u>01-0101-1601</u>	Accountancy Rules	Kent Absec, Executive Director, Board of Accountancy
<u>07-0106-1601</u>	Rules Governing the Use of the National Electrical Code	Warren Wing, Electrical Program Manager, Division of Building Safety
<u>07-0206-1601</u>	Rules Concerning the Idaho State Plumbing Code	John Nielsen, Plumbing and HVAC Program Manager, Division of Building Safety
<u>07-0301-1601</u>	Rules of Building Safety	Arlan Smith, Building Codes Manager, Division of Building Safety
<u>07-0202-1601</u>	Rules Governing Plumbing Permits	John Nielsen, HVAC Program Manager, Division of Building Safety
<u>07-0701-1602</u>	Rules Governing Installation of HVAC Systems	John Nielsen
PRESENTATION	Your Health Idaho	Pat Kelly, Executive Director, YHI

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick
Vice Chairman Guthrie
Sen Martin
Sen Lakey
Sen Thayn

Sen Souza
Sen Anthon
Sen Ward-Engelking
Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
email: scom@senate.idaho.gov

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 19, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, and Ward-Engelking

ABSENT/ EXCUSED: Burgoyne

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 Patrick** called the Senate Commerce and Human Resources Committee (Committee) meeting to order at 1:30 p.m.

MINUTES APPROVAL: **Vice Chairman Guthrie** moved to approve the Minutes of January 10, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Guthrie moved to approve the Minutes of January 12, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to introduce the presenters for the rules review being heard.

DOCKET NO. 12-0108-1601 **Rules Pursuant to the Uniform Securities Act (2004).** **Jim A. Burns**, Securities Bureau Chief, Department of Finance (DOF) presented this pending rule docket. He said the reason for adopting the pending rule is to reflect changes that have been made to existing guidance governing securities industry participants (dealers, dealer and advisor sales agents, investment advisors and issuers of securities).

Mr. Burns stated that after consideration of public comments, and in accordance with Idaho Code § 67-5227, the text of the pending rule in Section 104.22 has been amended and adopted. The remainder of the rule has been adopted as initially proposed. He said that only that section containing the change that differs from the proposed text is printed in this bulletin.

Mr. Burns said that the DOF's rules reference various rules of federal regulatory bodies with whom the DOF shares regulatory authority. He reported that during 2015 and as a result of the federal Dodd-Frank legislation, the United States Securities and Exchange Commission (SEC) passed new rules governing federal Regulation A securities offerings. (Regulation A is an exemption from registration that apply to public offerings of securities that do not exceed \$5 million in any one-year period.) In part, these new rules preempted state authority to oversee and comment on the disclosures presented in certain securities offerings but partially retained state authority to require filings and collect fees. This rule clarifies the effect of this federal preemption and allows the DOF to know who will be offering Regulation A securities to Idaho residents and to reduce its fee schedule accordingly.

Mr. Burns said recently the former National Association of Securities Dealers (NASD) was renamed as the Financial Industry Regulatory Authority (FINRA). Various rules changes are associated with eliminating and replacing NASD

references to FINRA references. Where applicable, some references to Investment Adviser Registration Depository or Code of Federal Register (CFR) citations have been amended to reference the appropriate CFR rules citation.

He explained the DOF collaborates with 50 other state securities regulators, as well as Canadian and Mexican securities regulators through the North American Securities Administrators Association (NASAA). Many of these efforts are directed at providing a uniform regulatory framework for securities issuer across jurisdictions. The DOF seeks to amend its existing incorporations of NASAA Statements of Policy to reflect changes in these uniform guidelines during the last ten years.

Mr. Burns commented that to provide some regulatory relief for certain securities issuers that wish to sell securities in multiple jurisdictions, the DOF piloted and allows the use of national Electronic Fund Depository (EFD) for the filing of certain documents. Acknowledgment of this optional issuer filing format will be provided for in these rules.

Mr. Burns clarified there are two tiers of regulated investment advisers in the United States. Investment advisers with assets under management in excess of \$100 million are required to register only with the SEC, while managing funds under \$100 million are required to register only with their state of domicile. Since advisers may, over time, experience variances in their "book of business," they may migrate back and forth between federal and state oversight. **Mr. Burns** said the DOF seeks to minimize the changes required of state registered advisers as they move between the two regulatory systems.

Mr. Burns clarified that investment advisers and their representatives are required to use national registration platforms to license in the jurisdictions where they will conduct business. Presently, advisers use the Investment Adviser Registration Depository (IARD) while their representatives use a corollary system known as the Central Registration Depository (CRD). The rules pertaining to these adviser and adviser representative registrations are being amended to clarify which registration platform should be used based upon the registrant's status as either an adviser or an adviser representative.

Mr. Burns gave an update on Rule 104.04 which proposes to add language that clarifies that investment advisers have a duty to provide suitable recommendations in connection with their advisory activities when advising clients to purchase or sell securities.

Mr. Burns explained that as a condition of registration and ongoing compliance, investment advisers must demonstrate solvency by providing a balance sheet to the DOF. To avoid confusion on the format and content of adviser balance sheets, the DOF proposed that Rule 89.01(e) be amended to identify that balance sheets are prepared substantially in accordance with Generally Accepted Accounting Principles (GAAP).

Negotiated rulemaking was conducted. There is no fiscal impact to the state.

DISCUSSION: **Senator Anthon** wanted to know what the difference was between the national market system, the global market, and the global select market. **Mr. Burns** said this terminology was a re-branding of one of the exchanges that was previously recognized.

Senator Lakey remarked that FINRA was a voluntary self-regulating association and wanted to know if there was any tie to the SEC or federal authority or it was totally self-regulating. **Mr. Burns** answered that FINRA is an organization that has been mandated, granted authority, and overseen and authorized by the SEC. FINRA is a membership organization. All broker/dealers as well as their representatives will be members of FINRA. The self-regulatory organizations will oversee and have their own enforcement authorities relative to those licensed people. The DOF partners with the licensing platform of FINRA, a national license and database, so regulators can share information and work collaboratively.

Senator Lakey referred to Section 101 of the rule and questioned why would we replace our definition of a branch office with a general reference to FINRA? **Mr. Burns** said that the DOF was working towards more uniformity as to what is reported or what needs to be reported and to have their own definition of a branch office. Branch offices that FINRA would identify might not be following FINRA's reporting cadre, but would follow the DOF reporting requirements.

Senator Lakey said he deferred to a large degree to the DOF and the practitioners in the state. He said he was a little concerned when authority is relinquished. He wanted to know if the DOF at least periodically reviewed what that definition may be and the yielding of that full authority to FINRA. **Mr. Burns** said the DOF has multiple ways of know who is doing business in the State in Idaho.

Chairman Patrick referred to the financial reporting and the format using GAAP standards and asked if an accountant was need to make sure the reporting was done correctly. **Mr. Burns** said the DOF was more than happy to assist those who are struggling with the reporting.

MOTION: **Senator Ward-Engelking** moved to approve **Docket No. 12-0108-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 01-0101-1601 **Accountancy Rules. Kent Absec**, Executive Director, Board of Accountancy, thanked Committee Secretary, Linda Kambeitz, for accommodating him in scheduling his presentation since he had a recent medical condition. **Mr. Absec** presented this pending rule docket. He said Rule 511 is being added to this docket to emphasize that licensees who let their license lapse and elect not to have their license moved to a status of "inactive" or "retired" status may use the word "former" without violating Idaho Code §§ 54-211 or 54-220.

Negotiated rulemaking was not conducted because the changes are simple in nature and were discussed with the Idaho Society of Certified Public Accountants and licensees without objections. There is no fiscal impact to the state.

Vice Chairman Guthrie thanked Mr. Absec for recognizing and appreciating Committee secretary, Linda, and said the Committee appreciated her as well.

MOTION: **Senator Martin** moved to approve **Docket No. 11-0101-1601**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0106-1601**

Rules Governing the Use of the National Electrical Code. **Warren Wing**, Electrical Program Manager, Division of Building Safety (DBS), presented this pending rule docket. **Mr. Wing** said the 2017 National Electrical Code (NEC) adds several new articles to the NEC that provide safety requirements for emerging technology. Articles have been added to address energy storage systems and direct current micro-grid installations. The 2017 NEC will also provide necessary guidance on the difference between small scale and large scale solar systems. There are numerous revisions and clarifications that will make it easier to understand and apply. The current rule amendment relating to Arc-Fault Circuit-Interrupter (AFCI) Protection can be confusing to electricians because it also removes the requirements that prescribed how to install AFCI branch circuits. This rulemaking revises the amendment to that section of the NEC. The provisions are maintained which indicate how the AFCI branch circuit is to be installed, while clarifying that in dwelling units it is only required to branch circuit and outlets supplying bedrooms.

Mr. Wing stated the proposed rule would adopt the 2017 edition of the NEC. The proposed rule would retain all the existing amendments to the NEC; however, the exception related to AFCI Protection is simplified to ensure more clarity. The effect of that exception remains the same.

Mr. Wing said the adoption of the 2017 NEC is expected to cost the DBS approximately \$5,000. This cost includes new code books and training associated with the implementation of the new code. Local jurisdictions will encounter similar costs. Negotiated rulemaking was conducted.

DISCUSSION:

Senator Lakey remarked that historically when some of the changes from one version of the code to another occur on a national level, there have been questions raised by the industry that some items do not fit with Idaho. He wanted to know if negotiated rulemaking was conducted. **Mr. Wing** said negotiated rulemaking was conducted. **Senator Lakey** asked **Mr. Wing** to describe those involved in the industry that participated and what kind of input did the DBS receive. **Mr. Wing** said that some of the feedback was clarification on the AFCI, which was clarified and changed in the rule.

Vice Chairman Guthrie wanted to know how extensive the review process was at the state level to make sure the change has not become too onerous. **Mr. Wing** said the DBS went through the process with the National Fire Protection Association. The whole process is done on-line, which can be followed by contractors and agencies.

Chairman Patrick wanted to know if the NEC is just guidance. **Mr. Wing** said the NEC is not an instruction manual, it is really how to install electrical systems safely.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 07-0106-1601**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0206-1601**

Rules Concerning the Idaho State Plumbing Code. **John Nielsen**, Plumbing and Heating, Ventilation and Air-conditioning (HVAC) Program Manager, Division of Building Safety (DBS), presented this pending rule docket. He said that in 2012, the Idaho Plumbing Board (Board) established the Idaho State Plumbing Code (IPC) with the intention to only consider adoption of a new edition of the underlying Uniform Plumbing Code (UPC) every six years, or two code cycles. In the past five years there have been many code changes that have positively affected the plumbing trade. Many of these changes are less restrictive and advantageous to contractors and property owners by providing them with more options. Examples of such changes include relaxing the requirements for the approval of plumbing fixtures and equipment, and provisions providing the ability for homeowners to more freely determine what kind of plumbing installations they may desire such as

shower thresholds, or non-potable rainwater catchment systems. Additionally, the DBS would like the ability to make interpretations of the rules in the event that it is advisable to do so, in order to provide clarity or direction to those making plumbing installations.

Mr. Nielsen explained the rulemaking adopts the 2015 UPC to serve as the base plumbing code for the IPC to be published in 2017, including certain appendices. The pending rule removes unnecessary provisions and tables from the rules which are already included in the 2015 UPC, and includes provisions related to the use of certain fixtures, as well as alternate materials and methods used by plumbers. Additionally, the pending rule provides greater flexibility for inspection officials, or the Authority Having Jurisdiction (AHJ) to use its discretion in enforcing certain code requirements related to testing of plumbing systems and fire sprinkler installations. Finally, the proposed rule also includes a provision indicating that the DBS may have written interpretations of these rules available for review.

Mr. Nielsen stated the proposed amendments will not have a significant fiscal impact on plumbing contractors and general contractors, but have the potential to positively affect contractors and property owners as a result of having more options in determining what fixtures and equipment they choose to install. The proposed changes have no fiscal impact on the State General Fund, and a minimally negative impact on the dedicated Plumbing Fund in order to update code books.

Negotiated rulemaking was conducted.

DISCUSSION: **Senator Lakey** wanted to know if the written interpretations were advisory or binding. **Mr. Nielsen** replied the rule is binding and the interpretation allows the public to see how the DBS is enforcing the rule. **Senator Lakey** remarked that someone would have to pursue a challenge to a written interpretation. **Mr. Nielsen** assured Senator Lakey the interpretation would be discussed before it became a legal issue.

MOTION: **Senator Martin** moved to approve **Docket No. 07-0206-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote** with **Senator Lakey** requesting that he be recorded as voting nay.

DOCKET NO. 07-0301-1601 **Rules of Building Safety.** **Arlan Smith**, Building Codes Manager, Division of Building Safety (DBS), presented this pending rule docket. He said adoption of the 2015 editions of the International Building Code (IBC), the International Existing Building Code (IEBC), and the commercial provisions of the International Energy Conservation Code (IECC) was the result of negotiated rulemaking involving the building industry, building officials, design professionals, energy specialists, and other interested stakeholders. Significant changes to the commercial building codes relating to health and safety concerns and technological advancements have been made since the last edition was published. Many of the changes streamline or simplify the application of the code. Several changes reduce requirements or expand options. These codes correlate with the latest published product and installation industry standards. Notably, while the 2015 commercial building and energy codes have been adopted, the Board determined through the negotiated rulemaking process to maintain the standards of the residential building and energy codes at the existing 2012 code level.

Mr. Smith said this rulemaking would result in the incorporation by reference of the following codes for Idaho the 2015 IBC; 2015 IEBC; and the commercial provisions of the 2015 IECC, which serves as the basis for the IECC. Further amendments to the 2015 IBC include adding lodging houses with five or fewer guest rooms to the R-3 residential occupancy, retaining existing amendments requiring drinking fountains in occupancies with an occupant load of more than 30 persons, and

service sinks in business and mercantile occupancies with an occupancy load of more than 30 persons except for restaurants. Finally, the pending rule adds an exception to the Commercial Energy Code for certain air filtration and treatment systems where requiring economizers to draw outside cool air would not be feasible.

Mr. Smith said this rulemaking is not expected to impact the General Fund, but is expected to increase short-term cost to code jurisdictions for code materials and training of inspectors. Amendments to the new commercial building and energy codes will result in some decreases in cost to building contractors and owners. Negotiated rulemaking was conducted.

DISCUSSION: **Senator Anthon** asked for a clarification that there is no change to building requirements for condominium structures or a four-plex under four stories tall. **Mr. Smith** said for those buildings there is no change in the energy conservation code provisions. There are very few changes that would affect those types of structures. There is some reformatting and some specific changes relating to those types of buildings when housing students and owned by universities, as there is an automatic smoke detection requirement.

MOTION: **Senator Thayn** moved to approve **Docket No. 07-0301-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0202-1601 **Rules Governing Plumbing Permits.** **John Nielsen**, Heating, Ventilation and Air-Conditioning (HVAC) Program Manager, Division of Building Safety (DBS), presented this fee rule docket. **Mr. Nielsen** said that currently, there is no mechanism for a plumbing contractor or homeowner to transfer a plumbing permit to a new contractor if, after the commencement of a plumbing installation, the property owner terminates its relationship with the original contractor and hires a new contractor. In such instances the new contractor or homeowner must purchase a new permit. There is also no mechanism for a permit holder to receive a refund for a permit fee that may have been obtained in error, or for which plumbing work was never commenced or only progressed minimally. In such instances the holder never recoups their fee for work, which may never have been completed and for which the DBS has never provided an inspection.

Mr. Nielsen further stated this rulemaking allows a permit holder to transfer a plumbing permit to another eligible person, such as a new contractor, if both parties agree and the new holder accepts the responsibilities attached to the permit and pays to the DBS an administrative fee. The rule also allows a permit holder to receive a refund of the permit fee where the plumbing work has never commenced. A portion up to 50 percent of the permit price may also be refunded if the work has not progressed beyond 50 percent completion. The permit holder must apply to the DBS for a refund.

Mr. Nielsen said a fee of \$45 will be imposed on those who desire to transfer a plumbing permit from one eligible party to another. This rule does not affect the General Fund and will have only a negligible effect on the dedicated Plumbing Board (Board) fund due to a slight decrease in fees previously paid for new permits that will no longer be required.

Negotiated rulemaking was not conducted. This rulemaking was discussed at several Board meetings over the course of the last year, and no opposition to the proposed rule was expressed to the Board. The rulemaking is advantageous to contractors and property owners, who would be able to transfer a plumbing permit to a new contractor at significantly less expense than securing a new permit. It also creates the ability to refund to purchasers of a permit the permit fee, or portion thereof for those plumbing projects on which work is never commenced or has not progressed beyond 50 percent completion.

DISCUSSION: Vice Chairman Guthrie remarked the rule is customer-friendly.

MOTION: Senator Lakey moved to approve Docket No. 07-0202-1601. Senator Thayn seconded the motion. The motion carried by voice vote.

DOCKET NO. 07-0701-1602 Rules Governing Installation of Heating, Ventilation and Air-Conditioning (HVAC) Systems. John Nielsen, HVAC Program Manager, Division of Building Safety (DBS), presented this fee rule docket. He said the construction industry in Idaho is facing a critical shortage of skilled workers, including HVAC workers. As it currently stands, many HVAC workers come to Idaho from states that do not require schooling. This leaves them unable to qualify for testing as a journeyman in Idaho. This rulemaking would allow such a person to qualify to take the journeyman's exam by demonstrating they have eight years of HVAC experience, in lieu of the current requirement of four years' experience and four years of schooling.

Mr. Nielsen said that currently there is no mechanism for a HVAC contractor or homeowner to transfer a HVAC permit to a new contractor, if after the commencement of a HVAC installation the property owner terminates its relationship with the original contractor and hires a new contractor. In such instances, the new contractor or homeowner must purchase a new permit. There is also no mechanism for a permit holder to receive a refund of a permit fee that may have been obtained in error, or for which HVAC work was never commenced or only progressed minimally. In such instances, the holder never recoups their fee for work that may never have been completed, and for which the DBS has never provided an inspection. Mr. Nielsen stated a fee of \$45 will be imposed on those who desire to transfer a HVAC permit from one eligible party to another. The fee itself is expected to be neutral to the DBS and the HVAC dedicated fund inasmuch as the fee imposed by the DBS for administering the transfer of a HVAC permit to a new permit holder is expected to cover the administrative costs to the DBS in processing the request. The effect of the fee would only have a negligible adverse effect on the dedicated HVAC Board fund due to a light decrease in fees previously paid for new permits that will no longer be required. The impact to the permit holder desiring to transfer a permit would be a one-time fee of \$45; however, the fee is expected to be significantly less expensive than securing an entirely new HVAC permit.

Mr. Nielsen stated that HVAC contractors in Idaho as well as qualified and experienced HVAC workers from other states seeking employment in Idaho have communicated with the DBS and HVAC Board (Board) the need to modify the journeyman rules relating to the licensure of out-of-state individuals. The issue was brought to the Board by interested parties numerous times over the past several years and no opposition to the proposed rule was expressed to the Board.

Mr. Nielsen reported that rulemaking is also advantageous to contractors and property owners who would be able to transfer an HVAC permit to a new contractor at significantly less expense than securing a new permit. It also creates the ability to refund to purchasers of a permit the permit fee, or portion thereof for those HVAC projects on which work is never commenced or has not progressed beyond 50 percent completion. This rulemaking was discussed at several Board meetings over the course of the last year without opposition.

MOTION: Senator Souza moved to approve Docket No. 07-0701-1602. Senator Martin seconded the motion. The motion carried by voice vote.

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

PRESENTATION: Your Health Idaho. **Pat Kelly**, Executive Director, Your Health Idaho (YHI), said that the moment H 348 was signed in 2013, YHI has worked to fulfill its mission, which is to maintain maximum control of Idaho's insurance marketplace at minimal cost to its citizens. He said he was proud to say YHI has been able to help tens of thousands of Idahoans have access to health insurance. He said the Department of Insurance (DOI) and the Department of Health and Welfare (DHW), along with leadership from the YHI Board of Directors, has successfully steered the YHI Exchange (Exchange) as one of the leading exchanges in the nation.

He briefly reviewed the history of YHI. He stated the Exchange was established by legislation in March of 2013. The first open enrollment was for the coverage year 2014. In 2015 YHI successfully moved to their own technology, breaking the ties to the federal system and becoming a fully-functional state-based exchange. The year 2016 was the third open enrollment period and proved to be the most successful to date.

Mr. Kelly stated that Idaho's success is due to the fact that the Exchange is state-based, which ensures local control and mitigates federal intervention. Plans are managed by Idahoans. While across the nation many states saw fewer choices in health insurance plans, YHI currently offers Idahoans more choice than ever before. For the 2016 open enrollment period, the DOI licensed 211 different health and dental insurance options, offering choice to Idahoans. Consumers can find help in their community through a local agent or broker. These relationships continue to be the cornerstone of YHI's success and ensure local control without federal intervention. More than 900 certified agents, brokers and enrollment counselors assisted Idahoans in 2016. YHI is governed by a board of Idahoans. The people running this organization truly care about this state and the people that call it home. By maintaining control in Idaho, YHI defines what success looks like. The assessment fee is approved by the Board. Currently, a 1.99 percent assessment fee was collected on health insurance plans while the federal government is charging 3.5 percent. Idaho's state-based Exchange is nimble and not hampered by federal bureaucracy. For example, in 2016 YHI recognized the opportunity to generate a new revenue stream for the Exchange by allowing advertising on the website. YHI was the first exchange in the nation to recognize and seize this opportunity.

Mr. Kelly referred to enrollment numbers, which he said change on a daily basis. He said 2016 saw more than 95,000 Idahoans enrolled in the Exchange. He pointed out that a slight majority of customers are women. The single highest age group is between 55 and 64 years of age, while close to 60 percent of customers are younger than 45 years old. And, he said, overwhelmingly, enrollees receive a tax credit (87 percent) and select a silver plan (69 percent). Looking to the coming year, 100,000 Idahoans have already selected a plan during the open enrollment period, which ends on January 31.

Mr. Kelly addressed the financial stability of the program. He indicated that YHI had healthy cash reserves and enough for six to nine months of operating expenses. The majority of expenses since the Exchange began is in technology. Even so, it is still the lowest investment of any fully-functioning state-based marketplace in the country. He pointed out that in addition to the balance sheet, the Exchange has also saved money for Idaho. He said the difference between the 1.99 percent assessment fee and the federal fee of 3.5 percent amounts to more than \$15 million. Last year it was reported that the State saved \$29 million in the catastrophic fund, which may be higher today. More than 95,000 Idahoans gained access to affordable healthcare coverage.

Mr. Kelly stated the Exchange anticipates new ideas and recommendations for change to the Affordable Care Act (ACA) in 2017, and is ready for whatever happens. Idaho created a healthcare marketplace that works for Idahoans. As policy makers consider changes, he is confident that once again the Exchange can provide the right solution for Idahoans. Idaho's Exchange is among the most efficient and sustainable in the nation. The model that Idaho built can serve as a successful foundation for reform. The Exchange is working for Idahoans. Over 100,000 Idahoans have found insurance coverage through the Exchange for 2017. Historically, an average of 85 percent of customers receive a tax credit.

DISCUSSION: **Senator Lakey** thanked Mr. Kelly for doing a great job of buffering Idahoans from the federal system. He wanted to know what Mr. Kelly has seen regarding rates from various providers in Idaho as compared to other states. **Mr. Kelly** said there was an overall average increase of 24 percent. **Senator Lakey** wanted to know what the average wait time was and did it need improvement. **Mr. Kelly** said the average wait time was approximately 12 minutes, depending on the day. He said that 77 percent of the inquiries get resolved within one day. More complex cases take longer. **Mr. Kelly** said that YHI was constantly looking at how to improve by looking at call volume, time of day, and peak times.

Senator Lakey asked what kind of factors were being measured with regards to customer service. **Mr. Kelly** stated that how many times interaction takes place with a stakeholder is measured as well as complexity, time of day, call volume, and the system technology.

Senator Ward-Engelking thanked Mr. Kelly for his good work. She wanted to know if the Affordable Care Act (ACA) is repealed, how much in tax subsidies would be lost. **Mr. Kelly** said there are \$220 million in tax credits received by Idahoans for 11 months. The total for 2016 is \$241 million for 12 months. Those credits help offset the cost of monthly premiums and it is received at the same time payment is made and the tax premium is sent to the carrier. It is important to note that a client receives immediate help with the premium. **Senator Ward-Engelking** stated that without those tax subsidies, there is no Exchange. **Mr. Kelly** said the tax credits received by Idahoans are critical for clients to maintain their health insurance. The platform that YHI is built upon can serve as a model and an incubator for reform.

Vice Chairman Guthrie said that \$29 million is saved from the GAP fund and that is high unless savings realized by county indigent programs are included. **Mr. Kelly** said both were included. **Vice Chairman Guthrie** stated that when a business is trying to obtain a subsidy, the reconciliation is not allowed to occur for a net number and that negative numbers are not recognized. **Mr. Kelly** said in order to qualify for an advance of the tax credit, income must fall within 100 to 400 percent of the federal poverty level. That can be a combined income and as long as it is within that range, a business would qualify. It becomes more complicated with small businesses, there can be revenue and expenses. If expenses cause a business not to have an income, the business would not fall within the federal poverty levels. Each case is individual.

Senator Souza wondered how many providers are currently on the Exchange. **Mr. Kelly** said that in 2017 there are five medical carriers and four dental carriers. **Senator Souza** wanted to know if that number had grown. **Mr. Kelly** reported that in 2014 there were four medical carriers and one was added with none leaving the Exchange. **Senator Souza** wanted to know if the average increase in premiums this year is 24 percent, if change occurs nationally, and the mandatory requirements for insurance is removed and someone does not have to get a full insurance policy, but a more limited plan could be accessed, would that change the whole scheme of what the premiums are doing now? **Mr. Kelly** said that it would be difficult to

answer the question without understanding the process. **Senator Souza** wanted to know if it comes to a decision, insurance would be opened up across state lines and would that impact the Exchange in a positive or negative way and would that change lower premiums. **Mr. Kelly** said that change would be difficult to ascertain as to the specifics, but he did not expect a material change.

Senator Thayne asked if there had been any discussion about removing barriers to access to services, such as primary care for those who cannot afford to see a doctor because they have a high-deductible policy and are in the lower income bracket. **Mr. Kelly** said participants in the lower brackets in terms of income relative to the federal poverty level, that there are cost-sharing reductions that help offset co-pays and deductibles for the doctor's office. For the lower income families who do not qualify on the Exchange, that need is not addressed.

Senator Thayne said there is help and access to insurance, but there are still co-pays and deductibles. He cited an example of a family who had the lowest cost product with a \$13,100 deductible and nothing was covered up until that except preventative services. There was a \$446 a month subsidy for that product. He said it would have been nice to put a one-month subsidy into a Health Savings Account (HSA) so they could access the care they needed that was not covered under preventative services. He was interested in discussing this further for the future.

Chairman Patrick said he thought that it was written in code that if the ACA went out, this Exchange would disappear. **Mr. Kelly** said it was his understanding that if any portion of the ACA was deemed unconstitutional, YHI would no longer enforce those provisions.

ADJOURNED: There being no further business at this time, Chairman Patrick adjourned the meeting at 2:50 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 24, 2017

SUBJECT	DESCRIPTION	PRESENTER
<u>DOCKET NO.</u> <u>07-0801-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - General Provisions	Larry Jeffres, Region 1 Manager, Division of Building Safety
<u>07-0802-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Health, Safety, and Sanitation	Larry Jeffres
<u>07-0803-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Explosives and Blasting	Larry Jeffres
<u>07-0804-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Garages, Machine Shops, and Related Work Areas	Larry Jeffres
<u>07-0805-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Signals and Signal Systems	Larry Jeffres
<u>07-0806-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Truck Road Standards	Larry Jeffres
<u>07-0807-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Transportation of Employees	Larry Jeffres
<u>07-0808-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Falling and Bucking	Larry Jeffres
<u>07-0809-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Rigging, Lines, Blocks, and Shackles	Larry Jeffres
<u>07-0810-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Canopy and Canopy Construction for Logging Equipment	Larry Jeffres
<u>07-0811-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Skidding and Yarding	Larry Jeffres
<u>07-0812-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Road Transportation	Larry Jeffres
<u>07-0813-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Log Dumps, Landing, Log Handling Equipment, Loading and Unloading Booms, Log Ponds, Rafting, Towing, Stiff Booms, Boom Sticks and Foot Logs, Pond Boats and Tow Boats and Trailer Loading Hoists	Larry Jeffres
<u>07-0814-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Helicopter Logging	Larry Jeffres
<u>07-0815-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Commonly Used Logging Terms	Larry Jeffres
<u>07-0816-1601</u>	Idaho Minimum Safety Standards and Practices for Logging - Recommended Safety Program	Larry Jeffres

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick

Vice Chairman Guthrie

Sen Martin

Sen Lakey

Sen Thayn

Sen Souza

Sen Anthon

Sen Ward-Engelking

Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz

Room: WW46

Phone: 332-1333

email: scom@senate.idaho.gov

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 24, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to introduce the presenters for the rules review being heard.

UNANIMOUS CONSENT REQUEST: **Vice Chairman Guthrie** explained that there were 10 rules that had common corrections and asked for unanimous consent to hear those rules in a group. There were no objections.

DOCKET NO. 07-0801-1601 **Idaho Minimum Safety Standards and Practices for Logging - General Provisions.** **Larry Jeffres**, Region 1 Manager, Division of Building Safety (DBS), said that during the 2015 legislative session the authority to perform safety inspections and issue safety orders as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained in the rules are outdated, no longer applicable, or confusing to the logging industry. **Mr. Jeffres** stated that accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations to applicable standards or regulations, or replace outdated or unclear illustrations related to common logging practices.

Mr. Jeffres explained that through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking. **Mr. Jeffres** said this rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters, as well as update key definitions related to logging safety practices. The rulemaking also identifies the DBS role in administering the logging rules, as well as clarifying the scope of the DBS authority in interpreting and applying the logging rules. **Mr. Jeffres** said finally, the rulemaking clarifies and updates the general requirements of both the employer's and employee's responsibility to ensure safe logging operations.

Mr. Jeffres emphasized that every employer must post and maintain in a conspicuous place or places in and about the place or places of business a written notice stating the fact that the employer has complied with the workers' compensation law as to securing the payment of compensation to employees and their dependents in accordance with the provisions of Idaho law. This notice should

contain the name and address of the surety, as applicable, with which the employer has secured payment of compensation. This notice should also be readily available on the site where logging operations are occurring, and available for inspection by DBS officials upon request.

DISCUSSION: **Senator Lakey** referred to the wording "under the influence or impaired by" and wanted to know if this was case law or a definition. **Mr. Jeffres** indicated the wording was changed to standardize the rule and upon the advice of legal counsel. **Mr. Jeffres** and **Senator Lakey** discussed the oversight of leaving "under the influence" in the rule on page 67, 010.04.f on the third line, which will be deleted in the future.

Senator Martin referred to the written notice stating that the employer has complied with the workers' compensation law and wanted to know if the signs were provided by the DBS. **Mr. Jeffres** said the standardized signs were provided by the DBS.

MOTION: **Senator Thayn** moved to adopt **Docket No. 07-0801-1601**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKETS: **Mr. Jeffres** presented the 10 similar dockets. He cited **Docket Nos. 07-0802-1601, 07-0803-1601, 07-0804-1601, 07-0805-1601, 07-0806-1601, 07-0807-1601, 07-0810-1601, 07-0813-1601, 07-0814-1601, and 07-0815-1601**. **Mr. Jeffres** said the changes were to update, organize, and clarify the rules for logging. **Mr. Jeffres** said that during the 2015 legislative session the authority to perform safety inspections and issue safety orders as well as conduct safety training programs, was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained in the rules are outdated, no longer applicable, or confusing to the logging industry. **Mr. Jeffres** stated that accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations to applicable standards or regulations, or replace outdated or unclear provisions related to common logging practices.

Mr. Jeffres stated through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking. This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters.

Senator Lakey pointed out a typographical error on page 91, 010.b.ii where the word "the" was left out. **Mr. Jeffres** indicated this was overlooked and will be fixed in the near future.

MOTION: **Senator Thayn** asked for unanimous consent to approve **Docket Nos. 07-0802-1601, 07-0803-1601, 07-0804-1601, 07-0805-1601, 07-0806-1601, 07-0807-1601, 07-0810-1601, 07-0813-1601, 07-0814-1601, and 07-0815-1601**. **Senator Ward-Engelking** seconded the motion. There were no objections.

**DOCKET NO.
07-0808-1601**

Idaho Minimum Safety Standards and Practices for Logging - Falling and Bucking. **Mr. Jeffres** said that during the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions contained in the rules are outdated, no longer applicable, or confusing to the logging industry.

Mr. Jeffres said that accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify and edit rule provisions, provide updated references and citations, or replace outdated or unclear provisions related to common logging practices.

Mr. Jeffres cited that through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking. This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters. **Mr. Jeffres** stated the rule also provides several amendments to clarify and update provisions related to the safe cutting and falling of trees, and the use of mechanical delimiters and felling equipment. **Mr. Jeffres** stated several provisions which illustrate and identify the proper cutting techniques of some common cutting methods were updated.

Mr. Jeffres reported that cutters not in sight of another employee will have radio communications with crew members on that job site. The graphics in this docket have been updated and improved for clarity of presentation, but otherwise the rest of this chapter represents minor grammatical and organizational cleanup for clarity.

DISCUSSION:

Chairman Patrick asked for an explanation of why chainsaws were crossed out on page 100. **Mr. Jeffres** said the language was removed primarily because of today's use of saws. Saw blades already have a guard.

TESTIMONY:

Galen Hamilton, Program Manager, DBS, explained that the saw was related to a two-man saw, which is no longer used.

MOTION:

Senator Martin moved to adopt **Docket No. 07-0808-1601**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0809-1601**

Idaho Minimum Safety Standards and Practices for Logging - Rigging, Lines, Blocks and Shackles**Mr. Jeffres** stated that during the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions contained in the rules are outdated, no longer applicable, or confusing to the logging industry. **Mr. Jeffres** said accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify and edit rule provisions, provide updated references and citations, or replace outdated or unclear provisions and illustrations related to common logging practices.

Mr. Jeffres reported that through the negotiated rulemaking process, the logging industry requested most of the proposed amendments set forth in the rulemaking. This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters. **Mr. Jeffres** stated the rule also provides several amendments to clarify and update provisions related to the use of guylines, and guyline anchors as well

as wire ropes and lines. Additionally, a table providing for wire rope specifications was updated and moved to a more appropriate location in a different chapter of the logging rules. **Mr. Jeffres** said finally, throughout the chapter existing illustrations (figures) were replaced with updated and/or clearer figures to assist loggers in more easily identifying common logging equipment or practices.

Mr. Jeffres stated that guylines will be fastened by means of shackles or hooks and slides. The use of loops or molles for attaching guylines is prohibited. The use of wedge buttons on guylines is prohibited. Properly installed deadman anchors are permitted. Guylines anchors will not be directly attached directly to deadman anchors. Suitable straps or equally effective means will be used. The entire table was eliminated due to inaccurate calculation (1/2 inch cable breaking strength) and replaced.

DISCUSSION: **Senator Martin** stated this docket addressed safety in the field and he was wondering how the loggers are doing overall now as compared to a few years ago. **Mr. Jeffres** replied that safety is getting better every year. Statistically, injury and death in the State have been reduced. **Mr. Jeffres** said the industry has made a commitment to workers to keep them as safe as possible.

MOTION: **Senator Anthon** moved to adopt **Docket No. 07-0809-1601**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0811-1601 **Idaho Minimum Safety Standards and Practices for Logging - Skidding and Yarding.** **Mr. Jeffres** stated that during the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained in the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations, or replace outdated or unclear provisions and illustrations related to common logging practices.

Mr. Jeffres stated several sections related to cable yarding, yarding machinery, wire rope, and tree climbing were added. These areas can be critical components of logging operations; however, they were not adequately addressed by the rules.

Mr. Jeffres reported that through the negotiated rulemaking process, the logging industry requested the proposed amendments set forth in the rulemaking. This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters. The rule also provides several amendments to clarify and update provisions generally related to skidding and yarding. **Mr. Jeffres** stated the rulemaking adds several sections related to cable yarding, yarding machinery, wire rope, and tree climbing.

Mr. Jeffres stated the majority of injury and deaths occur on cable yarding sites. All of the provisions of this section are Occupational Safety and Health Administration (OSHA) enforced and the majority of language in this docket was borrowed from the State of Oregon, considered the preeminent logging state in the Northwest. The yarding section amendments contain measures to ensure safe practices and provisions to ensure safe yarding equipment. Wire rope provisions include descriptions of different types of wire rope characteristics, specifications related to tensile strength, and other safety and precautionary issues related to wire life, wire connections, and inspection and care of lines. Tree climbing provisions were also

added related to plans and procedures for climbing trees, safe climbing operational practices, and proper climbing equipment. Additionally, a table providing for wire rope specifications was updated and moved from a different chapter of the logging rules and included herein as a more appropriate location.

Mr. Jeffres stated throughout the chapter updated and/or clearer illustrations (figures) were added to assist loggers to more easily identify common logging equipment or practices.

Mr. Jeffres said the Yarding Machinery (including Systems) section is intended to assist the contractor in better deciding which system is best-suited for a specific job site with the goal of creating a safer work environment for employees.

DISCUSSION: **Senator Burgoyne** asked Mr. Jeffres to assure the Committee that there have not been any problems or questions in the State of Oregon. **Mr. Jeffres** said lots of consideration was given to the logging rules in Oregon before Idaho adopted the rules. He remarked the material is effective and working with a good track record.

Senator Lakey asked why the advantages and disadvantages were listed in the rule, which was a different approach. **Mr. Jeffres** said including advantages and disadvantages was discussed and it is a variation of what is considered a normal and typical rule. The goal of this docket was equipment-guided. The industry desired to assure logging contractors and employees how a piece of equipment should safely operate.

MOTION: **Senator Souza** moved to adopt **Docket No. 07-0811-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0812-1601 **Idaho Minimum Safety Standards and Practices for Logging - Road Transportation.** **Mr. Jeffres** stated that during the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Several of the provisions required updates to references, as well as minor editorial revisions to ensure clarity.

Mr. Jeffres stated that through the negotiated rulemaking process, the logging industry expressed support for the proposed amendments set forth in the rulemaking. This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters. Documented reach inspections will be performed annually. Bunk logs will extend not less than 12 inches beyond the bunk, with the exception of non-oscillating bunks. The rulemaking also makes minor editorial revisions to several references and other rule provisions related to safe logging truck transportation.

DISCUSSION: **Senator Anthon** wanted to know if the language was added to another section or replicated in this docket. **Mr. Jeffres** said the information was being restated in the same language.

Senator Lakey pointed out a typographical error on page 147, 010.01, last sentence should say "or" instead of "of." **Mr. Jeffres** agreed.

MOTION: **Senator Burgoyne** moved to adopt **Docket No. 07-0812-1601**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

Idaho Safety Standards and Practices for Logging - Recommended Safety Program. **Mr. Jeffres** reported that during the 2015 legislative session the authority to perform safety inspections and issue safety orders, as well as conduct safety training programs was statutorily transferred from the Idaho Industrial Commission to the DBS. The minimum standards and practices for conducting logging operations in Idaho have not been substantively updated since their initial promulgation as administrative rules in 1997. Many of the provisions contained in the rules are outdated, no longer applicable, or confusing to the logging industry. Accordingly, many of the amendments contained in the rulemaking are either administrative in nature to clarify rule provisions, provide updated references and citations, or replace outdated or unclear provisions related to common logging practices.

Mr. Jeffres stated as authorized in statute, rules are established related to the process for the administrator to issue and enforce safety orders when inspection of logging operations reveals an unsafe condition or threat of serious bodily harm or loss of life.

Mr. Jeffres said that through the negotiated rulemaking process, the logging industry indicated support for the proposed amendments set forth in the rulemaking. This rulemaking would clarify the proper reference to statutory and rule provisions which govern any appeals process of decisions by the DBS related to logging safety matters. **Mr. Jeffres** said the rule also provides various amendments to clarify and update provisions related to the scope of the rules, fire and safety policies, and the proper reporting of logging injuries and fatalities to appropriate authorities.

Mr. Jeffres stated the rulemaking establishes the administrative procedures related to the issuance of safety orders by the administrator, as well as the procedural rights afforded to responsible logging parties who may object to a safety order and seek to contest the matter.

Mr. Jeffres stated the employer is responsible for reporting all in-patient hospitalization, amputation, or the loss of an eye for any employee to the Occupational Safety and Health Administration (OSHA) and the DBS Logging Safety Program within 24 hours.

Senator Burgoyne said he was curious about the terminology used with regards to the loss of an eye and wanted to know where the loss or injury list came from and why other body parts were not listed. **Mr. Jeffres** said the description came from the rules of the State of Oregon. He remarked the list could be more inclusive, but the key to the language is to prompt logging contractors to be quick and efficient in contacting the DBS when an injury occurs. **Senator Burgoyne** commented there are serious injuries that can occur to loggers that are not covered in this part of the rule. He wanted to know what the policy was for getting information about these particular injuries as opposed to others. **Mr. Jeffries** said that part of the language where it says that the employer is responsible for reporting all in-patient hospitalization is meant to be encompassing phraseology without complicating the new rule too much and would allow the logging contractor to still be responsible.

Mr. Jeffres referred to page 184, 20.e through f, Safety Order by the Administrator, was introduced by the DBS to stop a work site or "red tag" an operation due to severe safety issues that have the potential to imperil life and/or create significant injury opportunities. This has always been the authority of the administrator of the DBS and is in the rules and described in statute. The intent was to create a rule that was very encompassing that allows the logging contractors to completely and thoroughly understand what is in statute and in rule and allows employees to clearly instruct and to be able to explain this rule.

Mr. Jeffres said also contained in this language and clearly identifies and outlines the opportunity for the logging contractor to quickly and efficiently appeal the decision that has been made by the administrator. Since 1987, the careful introduction of guidance by safety advisors has been enough so there has not ever been a stoppage of work order.

Senator Burgoyne referred to 20.d of the rule, "the hearing may be held at such location or by such means as the administrator determines most convenient for the parties," and wanted to know who the parties were and the hearing would be held in a place convenient to the contractor and near where the work is being performed, and how would that all work out? **Mr. Jeffres** responded that one of the parties is the DBS and the other party is the logging contractor. To provide the very best and most expedient opportunity for the appeal to occur, the DBS has video-conferencing capabilities in the offices of Meridian, Coeur d'Alene and Pocatello. The vast majority of logging operations occur within the 10 northern counties of the State. **Senator Burgoyne** asked if there was a right of a judicial review as a contested case under the Administrative Procedures Act.

Patrick Grace, Deputy Attorney General, Attorney General's Office, assigned to the DBS, noted that anyone aggrieved has the right to appeal. **Senator Burgoyne** wanted to know if the appeal was on an expedited basis. **Mr. Grace** said the process was envisioned as being very expedited. He said there is a requirement that the DBS would give someone a hearing if the safety order is contested within five days. The logger needs to know immediately. A stop order causes loss of time and revenue.

Senator Burgoyne asked what happens if the contractor loses the appeal and how does the contractor go back to work? **Mr. Grace** said that DBS would assign a hearing officer who would determine if the stop order is valid. If the decision is not in favor of the loggers, they may not have to stop work entirely, but rather abate the condition or stop the practice. **Senator Burgoyne** remarked if the stop work order is entered or at the hearing stage, the employer could say they would comply. Does the employer have to show something more in order to get the operation going again. **Mr. Grace** said that was addressed in the statute and reiterated in the rules, which says the stop work order shall not be rescinded until the condition is abated. **Senator Burgoyne** stated that if an employer cannot start the operation, how do they abate? **Mr. Grace** the DBS would allow the employer to abate.

Vice Chairman Guthrie said he hoped there was some latitude and agreed with Senator Burgoyne. **Mr. Grace** said the DBS was only concerned with unsafe practices.

Senator Lakey said that if the hearing officer conducts the hearing, the officer can issue either a preliminary order or a recommended order, but the administrator is not necessarily bound by that order. **Mr. Grace** said that was correct. **Senator Lakey** stated if there is a judicial review, the court is going to issue an order and the order must be complied with. He pointed out the language in the rule that says the order shall remain in effect and shall not be rescinded until the administrator

has determined that the safety or correction has essentially been abated. Judicial review is not taken into account. The administrator may still think it is a problem, but if the court ultimately says it is not, then the administrator is not the one making the final decision. **Mr. Grace** said the DBS tried to follow the statute which says the decision should be rescinded until it has been corrected or removed. He said he hoped that the administrator has to make that determination through the process. There is a reconsideration process built-in. He said the DBS will be back again next year for cleanup of these rules.

TESTIMONY: **Jerry Deckard**, representing the Associated Logging Contractors of Idaho, testified in support of all of the rules. He thanked the Committee.

MOTION: **Senator Lakey** moved to adopt **Docket No. 07-0816-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

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

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:34 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 26, 2017

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of R. D. Maynard, Commissioner, Industrial Commission	R. D. Maynard
DOCKET NO. <u>28-0207-1601</u>	Rules Governing the Administration of the IGEM Grant Program	Megan Ronk, Director, Department of Commerce
<u>18-0110-1601</u>	Producers Handling of Fiduciary Funds	Dean Cameron, Director, Department of Insurance
<u>18-0148-1601</u>	Rule to Implement the Privacy of Consumer Financial Information	Dean Cameron
<u>18-0150-1601</u>	Adoption of the International Fire Code	Dean Cameron
<u>18-0154-1601</u>	Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards	Dean Cameron
<u>18-0156-1601</u>	Rebates and Illegal Inducements to Obtain Title Insurance Business Rules	Dean Cameron

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick

Vice Chairman Guthrie

Sen Martin

Sen Lakey

Sen Thayn

Sen Souza

Sen Anthon

Sen Ward-Engelking

Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz

Room: WW46

Phone: 332-1333

email: scom@senate.idaho.gov

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 26, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Anthon, Ward-Engelking, and Burgoyne

ABSENT/ EXCUSED: Senator Souza

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 Patrick** called the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of R. D. Maynard, Meridian, Idaho, to the Industrial Commission (Commission), to serve a term commencing January 13, 2017 and expiring January 13, 2023. **Mr. Maynard** said he is a native Idahoan. He worked in the construction industry for 29 years with most of those years at the Idaho National Laboratory (INL). He was a Business Representative for the Operating Engineers for eight years. **Mr. Maynard** stated he served for five years as President of the Idaho Building and Construction Trades. He also served on the Butte County School District #111 Board of Trustees for seven years with five of those years as Chairman. While at INL, **Mr. Maynard** said he served for 12 years on the INL Citizens Advisory Board, serving the last two years as Chairman. He was appointed to the Commission in 1999; reappointed in 2005 by Governor Kempthorne and in 2011 by Governor Otter.

Mr. Maynard gave a brief overview of the Commission. He reported the Commissioners are Thomas E. Limbaugh, Chairman; Thomas P. Baskin; and himself. The Commission is responsible for deciding contested cases, administering insurance requirements, approving settlement agreements, mediating workers' compensation disputes, providing no cost return-to-work services, deciding unemployment insurance appeals, and administering the Crime Victims Compensation Program (CVCP).

Mr. Maynard talked about some of the misconceptions about the Commission. **Mr. Maynard** said the Commission does not pay workers' compensation benefits, is not the State Insurance Fund, not an insurance company, or does the Commission set workers' compensation rates.

Mr. Maynard said with the exception of the CVCP, the Commission's primary funding source for ongoing operations is premium tax. Starting four years ago, the Commission implemented a 20 percent temporary reduction of the premium tax and last year S 1168 permanently reduced the premium tax from 2.5 percent to 2 percent. The premium tax is collected semi-annually. The Commission receives no revenue from the General Fund.

Mr. Maynard said the Commission is comprised of five departments: the Adjudication Division; the Employer Compliance Division; the Claims and Benefits Division; the Rehabilitation Division; and the CVCP. The Commission

is staffed by 138.25 Full-Time Employees (FTE).

Mr. Maynard commented that 2017 marks the 100-year anniversary of Workers' Compensation in Idaho. The Idaho Workers' Compensation Act was passed by the fourteenth Legislature of the State of Idaho and signed by Governor Moses Alexander on March 16, 1917. This Act brought with it the grand bargain between employers and employees of creating workers' compensation as the exclusive remedy for workplace injuries. The Commission will be coordinating events throughout the year to celebrate this 100-year anniversary.

DISCUSSION:

Senator Martin wanted to know what Mr. Maynard had accomplished while being on the Commission for the last 25 years. **Mr. Maynard** stated that when he first started on the Commission, workers' compensation cases were 2.5 years in arrears. The Commission was on the verge of losing funding due to the backlog. **Mr. Maynard** said the process was reformed and streamlined. Another accomplishment was implementing the Citizens' Advisory Board (Board) in 2000. The Board has been very effective and functions well. All legislation and rule changes are considered by the Board.

MOTION:

Senator Burgoyne moved to send the gubernatorial appointment of R. D. Maynard to the Industrial Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairman Patrick passed the gavel to Vice-Chairman Guthrie.

**DOCKET NO.
28-0207-1601**

Rules Governing the Administration of the Idaho Global Entrepreneurial Mission (IGEM) Grant Program. **Megan Ronk**, Director, Department of Commerce (DOC), said the proposed rule changes were to ensure the language between Idaho Code and the program rules are consistent; to correctly cite responsibilities for the DOC; to define "industry partner," a term that was introduced into Idaho Code during the last legislative session; and, to provide grammatical corrections and other program clarifications. There is no fiscal impact to the state.

Ms. Ronk said that negotiated rulemaking was not conducted because the DOC held informal negotiation sessions with officials representing the State Board of Education, Boise State University (BSU), Idaho State University, and the University of Idaho, in which all parties agreed with the proposed rule changes and language submitted in this notice.

DISCUSSION:

Chairman Patrick asked how the intellectual rights are divided. **Carmen Archibald**, Manager, IGEM, indicated that IGEM contracts with BSU and BSU has a contract with industry partners. Revenue, which could be 10 percent of net sales, is distributed back to the State Fund and IGEM.

Senator Burgoyne asked why the phrase, "and return all unspent IGEM funds to the Department" was taken out of the rule. **Ms. Archibald** replied IGEM pays awards funds based on a cost reimbursement basis. There are no funds to be returned.

Senator Guthrie asked if the funds were matching and was the model flexible. **Ms. Ronk** said the model was flexible and part of the evaluation process but there is no set amount recognizing that sometimes the match is actual cash or equipment and other times the match is in-kind contributions.

MOTION: **Senator Anthon** moved to adopt **Docket No. 28-0207-1601**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Anthon commented the IGEM program is excellent and a continued success story. The program brings research opportunities for students at the universities.

DOCKET NO. 18-0110-1601 **Producers Handling of Fiduciary Funds.** **Dean Cameron**, Director, Department of Insurance (DOI), said the pending rule seeks to add language amending a rule concerning insurance producers handling fiduciary funds. The rule specifically relates to bail bonds to provide deposit rules for cash collateral similar to that of other funds that insurance producers receive from clients; namely, to treat cash collateral as fiduciary funds. There is no fiscal impact to the state. Negotiated rulemaking was conducted.

MOTION: **Senator Lakey** moved to adopt **Docket No. 18-0110-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0148-1601 **Rule to Implement the Privacy of Consumer Financial Information.** **Dean Cameron**, Director, Department of Insurance (DOI), said this rulemaking provides language that relieves insurers and producers (licensees of the DOI) from having to send their customers an annual privacy notice where they comply with other requirements concerning any disclosure of personally identifiable financial information. This notice is only sent in situations where the licensee's practices and policies regarding disclosure have changed since the last notice was sent to their customer. The rulemaking will also benefit consumers by relieving them from receiving duplicative annual notices, because only new or changed notices will be received. The Governor has found that temporary adoption of the rule is appropriate because it will confer a benefit upon insurers, producers, and consumers.

There is no fiscal impact to the state. Negotiated rulemaking was not conducted because the rulemaking is brought based on a request from multiple industry groups establishing a consensus of support, is not viewed as controversial.

DISCUSSION: **Senator Burgoyne** wanted to know if there was any legal reason why the State of Idaho would be required to conform its rules to changes in federal law. **Mr. Cameron** said he did not think there was any legal ramification and he stated he was not sure the DOI wanted to have a stricter rule than federal law. He said notifications need to happen when a relationship begins and if there is any change, the consumer has to be notified. **Senator Burgoyne** wanted to know the rationale behind the change in the federal law, which is not necessary and practical. **Mr. Cameron** said it was his understanding that the change was part of the rationale of redundancy and budgeting.

TESTIMONY: **Bob Ricketts**, Ricketts and Associates, spoke in support of the proposed rule change. He remarked the issue was redundant and there was no need to notify the consumer on an annual basis as the notification process was costly. He stated this issue was brought to the DOI by his organization.

MOTION: **Senator Anthon** moved to adopt **Docket No. 18-0148-1601**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

Adoption of the International Fire Code. **Dean Cameron**, Director, Department of Insurance (DOI), said the pending rule seeks to amend the 2015 International Fire Code to match the anticipated adoption of the 2015 International Building Code by the Division of Building Safety. The pending rule adds new Section 020 (and renumbers current Section 020 as 019). The new section addresses the subject of sky lanterns by replacing the current prohibition of release of untethered sky lanterns with new language requiring a permit for their release and authorizing the local fire jurisdiction to restrict or place conditions on their release. There is no fiscal impact to the state. Negotiated rulemaking was conducted.

Mr. Cameron said the State Fire Marshall falls under the jurisdiction of the DOI. The DOI felt this issue was best-served by having the local jurisdiction determine whether or not the sky lantern festival would be appropriate.

DISCUSSION:

Senator Burgoyne said he was interested in what the differences were between the 2012 and 2015 International Fire Code (IFC). He recalled that in statute some exceptions have been made that might govern untethered sky lanterns. **Knute Sandahl**, Idaho State Fire Marshall, said the majority of the changes deal with existing provisions and related items, in conjunction with the IFC. Sky lanterns were not specifically addressed in the 2012 edition of the fire code. The sky lanterns were a new addition in 2015. The local jurisdictions were given a better opportunity to have local control.

Senator Burgoyne asked if there were any other changes to note between 2012 and 2015 besides the sky lanterns and existing provisions. **Mr. Sandahl** reported there were a number of small changes throughout the entire code that were added for additional clarifications. He remarked that Title 39 dealing with fire sprinklers has not been altered.

Senator Burgoyne said he was interested in the rule promulgation process and wanted to know if anyone, including consumers, employers or property owners, had any problems with adopting the 2015 IFC. **Mr. Sandahl** said the negotiated rulemaking process was posted as required by the Legislature and only one comment was received. He spoke with a number of fire safety individuals who were all in favor of adoption.

Senator Lakey clarified that those who work in construction or deal with the fire code are also notified as far as the negotiated rule process is concerned and **Mr. Sandahl** said that was correct. **Senator Lakey** said that the intent was to have local jurisdictions regulate the sky lanterns. He cited an example of students conducting a science experiment and he wanted to make sure a state official would not be asking a student if they had a permit for the sky lantern. **Senator Lakey** said he assumed the language in the Idaho Fire Code means that type of activity does not require a permit. **Mr. Sandahl** said a permit was not required for that specific activity unless the local jurisdiction required one.

Vice Chairman Guthrie remarked that once a rule is adopted, the rule could be changed next year.

Senator Burgoyne asked what kind of risk a sky lantern would pose in the hot months and was wondering if there was enough wording in the rule for protection. **Mr. Sandahl** said sky lanterns pose a significant threat in Idaho. These devices go wherever mother nature takes them and that is why the local fire marshall has been encouraged to make decisions at the local level. **Senator Burgoyne** said he felt this rule was counterintuitive in a state that

has had many disastrous fires. He wanted to be reassured that sky lanterns had risk control. **Mr. Sandahl** stated this is very workable and the Idaho State Fire Marshall's office has worked with the industry who proposed these amendments.

Mr. Cameron added that in most cases there is a local event holder who does a test run with the local fire official so they know the landing proximity. This rule gives the local fire marshal to cancel at the last minute, which is better protection. Fire lantern festivals bring in millions of dollars and the DOI is formalizing the process for sky lanterns.

MOTION:

Senator Lakey moved to adopt **Docket No. 18-0150-1601**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
18-0154-1601**

Rule to Implement the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards. **Dean Cameron**, Director, Department of Insurance (DOI), said the pending rule seeks to amend the existing rule to require all Medicare Supplement (aka Medigap) carriers to offer coverage to pre-65 Medicare eligible individuals; clarify the requirement to account for interest in projections; require experience and rate increases to be pooled among all plans offered by a company; and clarify rating/underwriting factors that can be used and when (e.g. smoking and pre-65).

Mr. Cameron stated that 25 states now require insurance companies to sell Medigap to all ages enrolled in Part B. Under age 65 Medicare beneficiaries have limited options for payment of Medicare deductible and co-payments. The DOI seeks to expand Medicare beneficiaries' options. Carriers have not included interest because Idaho's rule does not state it is required. In reviewing rate increases, the DOI has requested that rate increases be applied equally to all of a carrier's plans, rather than varying the increases based on the more variable experience of specific plans. This keeps the premiums more representative of the benefit differences, rather than reflecting the morbidity of the enrollees of specific plans.

The proposed changes will require an equal rate increases approach for future rate increases. Current rule disallows gender and geographic area as rating factors, but other factors are not clearly allowed/disallowed during open enrollment or outside of open enrollment, other than disallowing broad terms of "health status, claims experience, receipt of health care, or medical condition." There is no fiscal impact to the state. Negotiated rulemaking was conducted.

DISCUSSION:

Senator Lakey wanted to know what comments and inputs did the DOI receive from providers. **Mr. Cameron** said there were 46 carriers who offer supplemental plans. The DOI heard from some carriers offering to transfer to a medicare supplement plan and they were very supportive. **Mr. Cameron** stated every concern was addressed and there was no opposition.

TESTIMONY:

Mike Reynoldson, Vice President of Governmental Affairs, Blue Cross of Idaho, spoke in support of this rule.

MOTION:

Senator Martin moved to adopt **Docket No. 18-0154-1601**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
18-0156-1601**

Rebates and Illegal Inducements to Obtain Title Insurance Business Rules. **Dean Cameron**, Director, Department of Insurance (DOI), explained the reasons for the change. He said this existing rule concerns rebates and illegal inducements in title insurance and provides limits on what items of value may be provided to producers of the title business.

Mr. Cameron stated that changes in technology have increased efficiencies of operations for title agents such that items of value can be produced much more quickly, easily, and inexpensively. Additionally, some of the limitations in the rule have not been changed in many years.

Mr. Cameron said the text of the pending rule has been amended in accordance with Idaho Code § 67-5227. Only those sections that have changes that differ from the proposed text are printed in this bulletin. **Mr. Cameron** said the following changes are how the pending rule differs from the proposed rule: Subsection 010.05 defining social media is being removed, and Subsection 014.02 clarifying the use of social media is being removed. The agency is making these changes because there was not consensus. The existing rule provides some guidance on advertising. It is understood that if future issues arise related to any co-branding or co-advertising between title entities and producers of title business or trade associations, the agency may elect to conduct future rulemaking. There is no fiscal impact to the state. Negotiated rulemaking was conducted.

DISCUSSION:

Senator Burgoyne wanted to know who wanted to restrict advertising and why. **Mr. Cameron** said the industry wanted this restriction to avoid and to protect smaller title companies from larger companies. There was a concern about the appropriate distinction between the title and a realtor. **Senator Burgoyne** commented there are existing rules that restrict advertising and in his opinion, free trade is discouraged. Anti-competitive activity has been sanctioned. **Mr. Cameron** said the rule was a challenge for the DOI, but the changes in this rule make for a better situation than the current rule.

Senator Martin stated the industry is trying to self-govern themselves and they should be allowed to do so.

MOTION:

Senator Lakey moved to adopt **Docket No. 18-0156-1601**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

ADJOURNMENT:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:45 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #2
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 31, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of January 17, 2017 Minutes of January 19, 2017 Minutes of January 24, 2017	Senator Martin Senator Lakey Senator Thayn
<u>H 10</u>	Unanimous Consent Request for Referral Back to the Senate Floor	Chairman Patrick
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of Steve Landon to the State Insurance Fund Board	Steve Landon
<u>RS24892C1</u>	Relating to Retirement License Status	Susan Miller, Executive Director, Board of Dentistry
<u>RS24889</u>	Relating to Authority to Take Emergency or Summary Action Against a Dentist	Susan Miller
<u>RS24884</u>	Amending the Idaho Employment Security Law	Georgia Smith, Deputy Director, Department of Labor
DOCKET NO. <u>24-0101-1601</u>	Rules of the Board of Architectural Examiners	Mitchell Toryanski, Legal Counsel, Idaho Board of Occupational Licenses
<u>24-1801-1602</u>	Rules of the Real Estate Appraiser Board	Mitchell Toryanski
<u>24-1801-1601</u>	Rules of the Real Estate Appraiser Board	Mitchell Toryanski

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 31, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Bock (Burgoyne)

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 Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Martin** moved to approve the Minutes of January 17, 2017. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

Senator Lakey moved to approve the Minutes of January 19, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Thayn moved to approve the Minutes of January 24, 2017. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 10: Unanimous Consent Request for Referral Back to the Senate Floor. **Chairman Patrick** moved to refer **H 10** back to the Senate floor for possible re-referral. There were no objections.

GUBERNATORIAL APPOINTMENT & HEARING: The appointment of Steve Landon of Chubbuck, Idaho, to the State Insurance Fund Board, term commencing April 30, 2016 and expiring April 30, 2020. **Mr. Chubbuck** said he was retired from the J.R. Simplot Company, a lifelong Idahoan and a resident of Pocatello. He gave a brief overview of his family and hobbies.

Mr. Landon said this was his third appointment to the State Insurance Fund Board. He remarked there have been some changes and challenges over the last seven years. **Mr. Landon** said the State Insurance Fund is healthy and efficient and poised to meet any challenges that may happen during the next four years.

Senator Ward-Engelking asked Mr. Landon who he represented on the State Insurance Fund Board. **Mr. Landon** said he represented labor.

GUBERNATORIAL APPOINTMENT: **Senator Lakey** moved to send the gubernatorial appointment of Steve Landon to the State Insurance Fund Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 24892C1: **Relating to Retirement License Status.** **Susan Miller**, Executive Director, Board of Dentistry, stated the Board is proposing revisions to Idaho Code §§ 54-920.02, .06, and .07 in order to resolve three primary issues: 1.) Licensees who choose retirement status who later decide they want to go back to practice. As it currently exists, the statute expressly prohibits conversion of a retirement status license; 2.) current language in the definition of active status allows for absenting practice for not more than two years for specified reasons, however there are many reasons a licensee may need to absent practice and in some cases for longer than two years, and the Board of Dentistry does not have the resources to verify whether active status licensees are actually engaged in practice; 3.) the current language requires proof of 1,000 hours of clinical practice within the prior two years to convert a license from inactive to active status.

Ms. Miller said the Board feels the responsibility lies with the professional to seek continuing education sufficient to assure their current skill and ability in order to be active in Idaho. This would be in line with what would be required of an active status practitioner who may or may not be engaged in clinical practice.

DISCUSSION: **Chairman Patrick** asked if any training was required for a dentist who returned to active status. **Ms. Miller** remarked that dentists who return to active status must complete training. She stated that dentists who work out of the country have other options available, such as a special status license with a specific time duration. **Chairman Patrick** asked if a dentist in the military doing dental work would have the same requirements or would the dental work satisfy the requirement. **Ms. Miller** responded that those who have an active license and are in the military qualify. **Senator Lakey** remarked that he has to keep his attorney license current in the State, even though he is in the Army reserves. He wanted to know if the same rules applied to a dentist or if the dentist had to go inactive while in the military. **Ms. Miller** stated that a dentist has to be licensed in the State but there was a fee waiver for those in the military and applications are processed in a timely fashion. There are approximately 90 active-duty military dentists that have licenses in Idaho.

MOTION: **Senator Martin** moved to send **RS 24892C1** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

RS 24889: **Relating to Authority to Take Emergency or Summary Action Against a Dentist.** **Susan Miller**, Executive Director, Board of Dentistry, stated the Board of Dentistry is proposing to add a subsection to Idaho Code § 54-912(6) by adding language to authorize the Board of Dentistry to commence emergency proceedings against a licensee for revocation or other action if the Board of Dentistry finds there is an immediate danger to the public health, safety, or welfare. Other Idaho healthcare boards have similar language in their statutes. The proposed wording was taken from the Board of Veterinary Medicine's statute found in Idaho Code § 54-2105(8)(c). **Ms. Miller** said as explained in the statement of purpose, the Board sought an informal opinion from the Attorney General regarding this matter and was advised the Board must have a specific delegation of legislative authority to take emergency or summary action against a licensee.

DISCUSSION: **Vice Chairman Guthrie** stated this appears to grant the Board immediate authority, and he wanted to know what the appeal rights would be under this particular action. **Ms. Miller** said due process was established under the Administrative Procedures Act (APA). A licensee would have rights and the Board could not proceed with a summary action against a dentist without cause.

Senator Anthon wanted to know what would prevent the Board from conducting emergency or expedited hearings or proceedings for the revocation of a license hearings now. **Ms. Miller** replied the Board can and did start immediate proceedings in an earlier case in 2016. The Board wanted to advance the process more rapidly through emergency proceedings or an interim suspension pending the hearing. During this particular case, the Board was relying on the APA that outlines the process, but did not realize there was not a specific designated authority. The Board was advised by the Deputy Attorney General in the form of an informal opinion.

Vice Chairman Guthrie stated he wanted to know more about the appeals process and the rights of the individuals who were sanctioned when the bill comes before the Committee at a later date.

MOTION: **Senator Lakey** moved to send **RS 24889** to print. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

RS 24884: **Amending the Idaho Employment Security Law.** **Georgia Smith**, Deputy Director, Department of Labor (DOL), stated that by changing the status of Career Information System positions from exempt (non-classified) to classified involves no major changes in compensation, vacation, sick leave accrual or benefits. Based on the statutes already in place and followed by the DOL, the four positions are earning a salary equivalent to an appropriate department classified pay grade, which is a pay grade "L" as shown in the current Fiscal Year (FY) 2017 compensation schedule as maintained by the Division of Human Resources. This change will increase the DOL's ability to employ and recruit top tier candidates. With Idaho's low unemployment rate and tight labor market, recruiting new employees to an exempt position is a challenge. The proposed change will allow the DOL to maximize the use of its total Full-Time Employee (FTE) count by increasing its ability to redeploy personnel where and when necessary, increase retention, and reduce training costs for staff through access to promotional opportunities within the DOL.

Ms. Smith commented that except for the administrator's position which will remain exempt, all Career information System (CIS) staff will be required to reapply for the newly classified positions.

Ms. Smith reported that delivery of career information is also integrated into the DOL's services it provides to unemployment insurance claimants, job seekers and youth, and is a key component of any application for intensive job search services. CIS also plays an essential role for those participating in services provided by the Workforce Innovation and Opportunity Act (WIOA). Oftentimes, CIS activities are a first step for youth and adults entering into a WIOA program.

Ms. Smith pointed out these positions are also critical for meeting the requirements the DOL agreed to when it received a \$274,275 Corporation for National Community Service Grant. These funds are being used to pay for 11 Idaho AmeriCorps members who are working as college and career coaches at Jerome Middle School, Jerome High School, Burley High School, Weiser Middle School, Black Canyon Alternative High School, Lakeside Junior-Senior High School, Caldwell High School, Canyon Springs High School, Cassia Alternative

High School, Raft River Junior-Senior High School (recruiting), Burley Junior High School (recruiting). All of these schools are rural, low-income schools.

Ms. Smith noted staff are also overseeing work currently being performed by three Volunteers in Service to America (VISTA) members who are assigned to the DOL. Each of the three VISTA members are working with local schools, school districts, workforce providers, and community stakeholders in northern, southeastern and southwestern Idaho to develop locally-driven strategic plans for carrying out career planning activities.

Ms. Smith gave a brief background of Idaho's CIS. She said the CIS was established 36 years ago in 1980 as Idaho's official CIS and the only comprehensive source of career information specific to Idaho and the nation. Throughout the years, delivery of the information housed within this system has evolved from punch cards in the needle sort deck to a robust online service delivery system. Management staff and program administration was originally part of the Idaho Division of Professional Technical Education (IDPTE).

Ms. Smith explained that in 2008, Idaho Code § 72-1345A was amended and the network, employees, and funding responsibility for staffing, populating and maintaining Idaho's CIS were transferred from the IDPTE to the DOL. As outlined in the amended code, Idaho's Workforce Development Council (IWDC) was listed as the designated advisory body and the positions to be transferred were listed as exempt.

Ms. Smith remarked that today there are six employees, including one administrator, three training and marketing specialists, a senior research analyst and a technical records specialist. These employees introduce the system to and help Idaho schools meet the terms and conditions of S 1290, which was passed in 2016 and requires and funds career planning in the schools and school districts throughout the State.

Ms. Smith related that the Idaho Workforce Development Council, consisting of representation from the Office of the State Board of Education, the DOL, the Division of Vocational Rehabilitation, the Department of Education and the Workforce Development Council, serves as the system advisory board. Through the creative use and delivery of information on occupations, wages, and career paths, this system has helped students and adults learn more about career opportunities, education, and training programs at Idaho colleges and universities and reach their career goals.

DISCUSSION:

Senator Martin asked how many employees were affected by this proposed change and how they felt about the change. **Ms. Smith** reported that four of the current career staff will be required to reapply for their positions. The employees support the change. **Ms. Smith** said there were no significant changes to salary and benefits, but that classified status is more secure.

Senator Lakey stated he supported the the proposed legislation, but wanted to know more about the practical effects of this change and the difference between classified and non-classified as it applies to the DOL. He wanted to know about the pros and cons from a management perspective of the individual employees. He asked Ms. Smith to be prepared to supply this information when the bill is heard by the Committee.

Ms. Smith remarked there were situations in the past where there have been staff shortages or there have been tight budgets during times of the administration of CIS and because those positions were listed as exempt in

statute, it has been a challenge to redeploy classified personnel into CIS to help out. Because the employees will be classified, the DOL will be allowed more flexibility in moving staff to support CIS when those times are needed.

Senator Souza asked what the difference was between a Change in Employee Compensation (CEC) for classified employees versus exempt employees.

Senator Souza asked if there would be an impact on the level of benefits.

Senator Souza said she was on the Change in Employee Compensation Committee and she was under the impression that there was a difference between exempt and classified staff. **Ms. Smith** indicated her understanding was that an exempt employee was an "at will" employee. A classified employee has more rights in terms of due process when it comes to termination of a position or being fired.

Vice Chairman Guthrie clarified there was a difference between classified and non-classified employees depending on whether a CEC is recommended. He said there was a potential fiscal impact. He asked for more detail when the hearing for the bill takes place.

MOTION: **Senator Anthon** moved to send **RS 24884** to print. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

DOCKET NO. 24-0101-1601 **Rules of the Board of Architectural Examiners.** **Mitchell Toryanski**, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), said the only change to the pending rule from the version originally proposed is a non-substantive one in Idaho Code § 450.03.b, where the word "architect" is changed to "architectural." There is no fiscal impact to the State. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the IBOL. Only three comments were received.

Mr. Toryanski remarked the 2015 National Council of Architectural Registration Boards (NCARB) Certification Guidelines contain current national standards of certification that protect the health, safety, and welfare of the public. The 2014 NCARB Rules of Conduct contain the latest rules of conduct that architects are required to follow. The Certification Guidelines and Rules of Conduct currently incorporated into the Rules of the Board of Architectural Examiners have been superseded by these publications.

DISCUSSION: **Vice Chairman Guthrie** asked what were the three comments that were received at the IBOL meetings. **Mr. Toryanski** said one comment was about striking the endorsement of seismic knowledge, but he said the statement was no longer needed. The second comment was when the IBOL used the term "architect" and the wording should have been "architectural." The IBOL made the change. The third comment was in support of the changes.

TESTIMONY: **Steve Turney**, CJ Architects, Boise and Real Estate Appraisers Board (REAB) member for ten years, testified in support of this bill. The changes align Idaho with other states.

MOTION: **Senator Thayne** moved to approve **Docket No. 24-0101-1601**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-1801-1602**

Rules of the Real Estate Appraiser Board. Mitchell Toryanski, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), said there are no changes to the pending fee rule and it is being adopted as originally proposed. The proposed rule establishes fees which will be deposited in the IBOL dedicated fund. The fees are \$1,200 for original Appraisal Management Company (AMC) registration and \$1,200 for registration renewal. The renewal includes up to \$50 as determined by the Appraisal Subcommittee of the Appraisal Foundation multiplied by the number of appraisers working for or contracting with an AMC, which the State is annually required to pass through to a federal agency or instrumentality. **Mr. Toryanski** said the Real Estate Valuation Advocacy Association (REVAA) was in support of the rule.

DISCUSSION:

Senator Anthon wanted to know if the \$1,200 fee was new or current. **Mr. Toryanski** remarked there is a cap of \$1,500. When a survey was conducted with surrounding states, the IBOL discovered that some charge \$1,500 and up to \$2,500.

TESTIMONY:

Scott Calhoun, REAB member and practicing appraiser in Idaho, said the Board conducted a survey of surrounding states. The Board projected a registry of 75 AMC's and that the fee of \$1,200 would be less than the cap and also in line to administer the program. The IBOL identified and projected in the Statement of Purpose (SOP) in 2016 that the fiscal impact would be one Full-Time Employee (FTE) at \$45,000 and operating funds of \$20,000 for the registry. The IBOL ideal revenue balance is 1.5 times (\$25,000 overage), which would take the IBOL four years to build for the operation of the AMC registration. These rules will allow registration as of July 1, 2017.

DISCUSSION:

Senator Martin wanted to know why a \$1,200 fee was being charged and was this fee assessed to generate revenue or to limit the number of AMC's. **Mr. Calhoun** said the fee was set to administer the registration program.

Senator Lakey asked if the \$1,200 fee was charged per company or firm. **Mr. Calhoun** reaffirmed the fee was per company or firm.

Senator Lakey wanted to know if the fees were going to be higher than \$1,200 and did the fees fit into the cap. **Mr. Calhoun** went over the REAB's budget for current personnel and operating expenses, the number of credentials, the AMC's and projected personnel and operating expenses. **Mr. Calhoun** said the REAB projected 75 registrants, which would work out to \$867 per registrant. He referred to the survey of surrounding states, fees, and the number of AMC's registered relative to the population. **Mr. Calhoun** stated the addition of \$50 would be coming with a proposed law from the federal Appraisal Subcommittee that oversees appraisers and appraisal management companies. A registry is being established and every state that registers AMC's will be required to pass a \$25 to \$50 (the fee has not been set yet) per appraiser on every panel to the federal registry. The additional fee falls under the law that is forthcoming. If the law in Idaho does not pass with the pass-through fee, the per appraiser registry fee will eat away at not just the AMC registration dollars but also the REAB's dollars. **Mr. Calhoun** remarked that AMC's are only required to register if there is a panel in excess of 15 appraisers. At the minimum, there would be 16 appraisers per panel, but **Mr. Calhoun** stated he thought there would be close to 25. He said the REAB was hoping to gain the authority to collect and pass the fee through.

Senator Lakey asked if the pass-through fee was subject to the \$1,500 cap. **Mr. Calhoun** said that was correct, but said the REAB was not aware there would be a registration pass-through fee when the cap was established. The REAB is presenting the law change to allow collection of the pass-through fee and to administer the program in the State.

Senator Lakey questioned who was the appraisal subcommittee and how would that committee decide whether the fee would be \$25 or \$50. **Mr. Calhoun** said the sub-committee answers to Congress. The subcommittee oversees the Appraisal Foundation, which includes the Appraisal Qualifications Board and the Appraisal Practices Board that developed appraisal standards and requirements for licensure. The Appraisal subcommittee currently maintains a registry of all credentialed appraisers in each state and has a similar registry fee that is required. **Mr. Calhoun** explained that what the registry does for credentialed appraisers is it allows an appraiser from Oregon to obtain a license in Idaho through reciprocity. This gives Idaho the authority to investigate to find out if there were any revocations or suspensions against the appraiser in Oregon or a neighboring state.

Senator Lakey clarified that the appraisal subcommittee is a federal entity and they set the fee and the intent is to mirror the fee that is set. **Mr. Calhoun** said that was correct.

Senator Martin wanted to know how many companies were projected to pay the \$1,200 fee. **Mr. Calhoun** remarked there were 75 projected as of July 1, 2017. He reported that Wyoming had 50 AMC's register on the first day.

Senator Martin said he was aware the self-governing board had deficits in the past (from 2010 to 2014), but it appeared revenues were going up and expenses going down. He wanted to know if there was going to be a significant cost to the REAB that warrants the \$90,000 projection to administer and reinforce the law. **Mr. Calhoun** said he wanted the Committee to know how quickly the REAB went into the negative. Since the REAB raised appraiser license fees, the REAB has been doing well. The REAB has streamlined the application process. The REAB hopes to readjust and reduce the appraiser fees in the future.

Senator Martin asked if the registry of the AMC's would be revenue neutral to the REAB or would the increase generate income and would it cost \$90,000 to administer and enforce. **Mr. Calhoun** said the REAB will have an overage of \$25,000 per year for a total of \$60,000. However, it will take four years to get to the 1.5 times the budgeted amount projected.

Senator Anthon commented that by definition the AMC is a company that is going to have at a minimum 15 state-certified licensed appraisers or up to 25 over two states. He remarked that if there were a minimum of 50 employees at \$25 each, the statute would be violated. Code would have to be amended. **Mr. Calhoun** clarified that from the REAB's perspective, the IBOL was looking at the registration fees, funding fees, the Idaho registration program and after the cap was outlined in law, the federal registry fees that will be required. If all of the fees were considered, the extra \$25 or \$50 would exceed the \$1,500 cap.

Chairman Patrick remarked that this is a service that is being provided to small mortgage companies and a result of the Dodd-Frank Act requirements. The large companies can handle any AMC. He said he assumed the AMC's will charge a service fee to whomever they are working with to get an appraisal. The fees are to help with the administration of the program which has to be solvent. **Mr. Calhoun** explained there had been a number of states that have had enforcement actions. Some have been very high profile cases and quite costly. The State of Utah reported currently there are three enforcement actions at their Attorney General's office. Most of the states he has surveyed have not had significant enforcement actions.

Vice Chairman Guthrie commented that \$45,000 for a full-time employee (FTE) did not seem to include benefits. **Mr. Calhoun** said the IBOL verified the amount of \$45,000 and said the amount was correct and included benefits.

Mr. Toryanski commented the IBOL is not in the business to make money. If revenue is reported, the various boards come to the IBOL and ask for a license decrease.

MOTION: **Senator Anthon** moved to approve **Docket No. 24-1801-1602**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**. **Senator Martin** asked to be recorded as voting nay.

DOCKET NO. 24-1801-1601 **Rules of the Real Estate Appraiser Board.** **Mitchell Toryanski**, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), said this rule incorporates by reference the current version of the Uniform Standards of Professional Appraisal Practice (USPAP), which represents the generally accepted and recognized standards of appraisal practice in the United States. USPAP is adopted in these rules as the rules of conduct and code of ethics for licensed real estate appraisers. Continuing education requirements direct that update courses cover the most recent USPAP edition.

Mr. Toryanski said that on January 1, 2016, the 2016-2017 edition of the USPAP went into effect.

MOTION: **Senator Martin** moved to approve **Docket No. 24-1801-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Guthrie passed the gavel to Chairman Patrick.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:42 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 02, 2017

SUBJECT	DESCRIPTION	PRESENTER
DOCKET NO. 07-0501-1601	Rules of the Public Works Contractor's License Board	Ron Whitney, Deputy Administrator, Division of Building Safety
07-1001-1601 (NEW CHAPTER) PRESENTATION	Rules Governing the Damage Prevention Board, Division of Building Safety Idaho Department of Commerce Update	Ron Whitney Megan Ronk, Director, Idaho Department of Commerce
<u>RS24930</u>	Idaho Global Entrepreneurial Mission (IGEM)	Megan Ronk
<u>RS25074</u>	Relating to Health Savings Accounts	Senator Thayn
<u>RS25094</u>	Relating to Insurance	Lance Giles, Asurion Portable Electronic Insurance Company
<u>RS25026</u>	Relating to Submersible Pumps	Senator Nonini
<u>RS25063C1</u>	Relating to Insurance	Senator Rice

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Bock(Burgoyne)
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 02, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Bock (Burgoyne)

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 Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

DOCKET NO. 07-0501-1601 **Rules of the Public Works Contractor's License Board (PWCLB).** **Ron Whitney**, Deputy Administrator, Division of Building Safety (DBS), testified that this rule was rejected by the House Business Committee and the PWCLB will not pursue the minor changes in this rule. **Chairman Patrick** asked if the rule was heard. **Mr. Whitney** said the rule was rejected in the subcommittee and also rejected by the full House Business Committee.

MOTION: **Senator Thayn** moved to reject **Docket No. 07-0501-1601**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-1001-1601 (NEW CHAPTER) **Rules Governing the Damage Prevention Board (Board), Division of Building Safety (DBS).** **Ron Whitney**, Deputy Administrator, DBS, explained the pending fee rule will be adopted to establish a fee to be imposed on underground facility owners to participate and cooperate each time the owner receives notice from the one-number notification service that a proposed excavation may occur within the area of their underground facility. The fee will be collected by a one-number notification service and is payable to the Board. The fee will be imposed uniformly on all owners and is intended to defray the expenses of the Board and the DBS in supervising, regulating and administering the provisions of Idaho Code, Title 55, Chapter 22.

There are no changes to the pending fee rule and it is being adopted as originally proposed. A fee of 10 cents will be imposed on the owner of an underground facility.

Negotiated rulemaking was not conducted because the rulemaking is simple in nature. Idaho Code § 55-2203, requires that the Board establish a fee imposed uniformly on all facility owners who are required to participate in the one-number notification service, and promulgated in rule to fund the activities of the Board. This rulemaking was discussed at several Board meetings since the inception of the Board in July 2016.

Mr. Whitney said the industry already pays a fee of \$1.65 per call to fund the one-call service generically known as Digline. The additional 10 cents will fund the activities of the Board to include development of educational materials and training

programs.

Mr. Whitney reported the fee is voluntary that the industry is imposing on itself in anticipation the cost will be offset by resulting savings in damage repair, excavator downtime, and interruption in vital services caused by damage to existing underground facilities.

DISCUSSION: **Senator Lakey** asked Mr. Whitney to explain how the one-number notification system worked. **Mr. Whitney** explained there are two lines, one called Digline for the southern part of the State and Password for the northern part of the State. All utilities are called so underground lines can be identified. Each utility is assessed 10 cents for calls in excess of 500,000.

Vice Chairman Guthrie wondered if counties and cities were going to have to pay the 10 cents. **Mr. Whitney** replied that those cities and counties who have underground utilities participate in the 10 cents per call rate. The cities, represented by the Association of Idaho Cities (AIC), joined the negotiated rulemaking process in establishing this rule and the Board has a requirement that there needed to be one city or county representative on the Digline and Board.

TESTIMONY: **Neil Colwell**, Avista, testified in support of this docket. He remarked that legislation requires the Board to adopt a fee for holders of underground utilities. He gave a brief history of the rule and he said no comments were received from negotiated rulemaking. He said this rule follows what is in the legislation.

Ron Williams, lobbyist, Cable Broadband Association and Desaro Pipeline, testified that both of his clients were in support of the rule. He remarked that there would be damage to the internet industry if one of his clients lost internet service. Desaro has the pipeline that supplies all of the gasoline and petroleum products in Southern Idaho from Pocatello all the way to the West Coast. There is a potential of a dangerous situation if someone hits the pipeline.

MOTION: **Senator Lakey** moved to approve **Docket No. 07-1001-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

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

PRESENTATION: **Idaho Department of Commerce (IDOC) Update**. **Megan Ronk**, Director, IDOC, gave a brief overview of the programs sponsored by the IDOC. **Ms. Ronk** pointed out that Idaho was highly ranked in various areas by different groups. For example, Idaho has been continually recognized for the positive business climate and the ability to create jobs in the State. Kiplinger and Governing Magazine have ranked Idaho as the number one state for fastest job growth. She cited that Vogue magazine had recently ranked Idaho as one of the top ten places to travel to in the world.

Ms. Ronk pointed out that the purpose of the Tax Reimbursement Incentive (TRI) is to attract new business to the State, but also to encourage existing companies to grow, expand, and invest additional capital and jobs in Idaho. Both urban and rural communities have benefitted from this tool. The IDOC is projecting a 4:1 return on investment. She remarked these are companies that may not have otherwise made an investment in Idaho. Local match from partners throughout the State is required. She said that for 2016 TRI awarded and supported 33 projects. There were 5,193 total new jobs with \$2.3 billion in total new wages with average projected wages at \$46,998. **Ms. Ronk** said new capital investment was \$964 million, new direct State revenue was \$257 million, with an estimated credit value of \$60 million. **Ms. Ronk** remarked that there were 33 total projects with 18 rural and 15 urban.

She pointed out that there were 17 new Idaho businesses funded by the TRI. **Ms. Ronk** related that there was a mill in Emmett that was closed. Woodgrain Mill Works acquired the mill and has been making some very significant capital investments to that facility. A new state-of-the art mill will be up and running in Emmett in the very near future, putting families back to work. Vista Outdoor, which is a major employer and manufacturer of bullets in the Lewis-Clark Valley, consulted with the IDOC and announced they would be expanding their facilities in Lewiston. **Ms. Ronk** cited another example with Hearthside Food Solutions, which is a co-packer working with all name brand products. That company acquired and moved into the former Power Bar facility.

Ms. Ronk remarked Opportunity Funds are awarded to cities and counties to invest in infrastructure. So far, the fund has helped five companies who were interested in making a move to Idaho.

Ms. Ronk stated the Community Development Block Grant (CDBG) Program 2016 Project awarded \$7.5 million in grants. Some of the grants were awarded to water and sewer districts, fire stations, hospitals, landfills, senior centers, community centers and downtown projects.

Ms. Ronk remarked that IDOC is home to the Idaho Tourism Office, which is the third largest industry behind agriculture, computers, and electronics. There is a 2 percent hotel lodging tax. Tourism continues to be a very strong point.

Ms. Ronk outlined international successes. She noted that in the State Trade Expansion Program (STEP), in Fiscal Year (FY) 2016, there were 28 participation awards for 5 international trade shows with the total award amounting to \$268,682. **Ms. Ronk** said that during the Governor's Trade Mission to China there were 5 IDOC companies and 14 total companies who participated. Trade missions were organized in partnership with the Idaho State Department of Agriculture. Since that mission, companies have reported over \$300,000 to date in actual sales. There are three trade offices in China, Taiwan, and Mexico that are managed in cooperation between IDOC and Agriculture.

Ms. Ronk gave a brief overview of the Idaho Global Entrepreneurial Mission (IGEM) from FY 2013 to FY 2016. She reported that in FY's 2014, 2015, and 2016, the program awarded all funding. In FY 2014 IDOC augmented the program maximum by \$22,371. In FY 2016 IDOC augmented available program funding by \$154,830. **Ms. Ronk** noted these additional monies were realized through IDOC savings resulting from personnel changes, such as retirements and so forth. She noted there is an effort to spur commercialization out of research institutions partnering with Idaho businesses.

Ms. Ronk outlined a new program called Business Retention and Expansion (BRE) that did not require any new funds, but rather a shift or reallocation of internal resources to address helping existing companies. The BRE was created in October 2016 with the sole focus of meeting with Idaho companies in tandem with local partners. The IDOC asked how they could help businesses, were there barriers preventing continual growth, and what could be done at the State level. **Ms. Ronk** said it was important that the IDOC pay attention to existing companies.

Ms. Ronk stated the IDOC is very optimistic about the future of Idaho's economy. She urged the Committee to take a balanced approach in discussing what is important to business growth. **Ms. Ronk** said companies talk about taxes, talent and the workforce, education, and infrastructure, all of which are equally important and each deserve important debate and discussion.

DISCUSSION: **Senator Souza** remarked she heard from the Lieutenant Governor that he and Ms. Ronk attended a gun show and she wanted to know if there were any positive comments about Idaho. **Ms. Ronk** said the IDOC sponsored a booth at the show and received a lot of interest from companies from California who wanted to know how they could relocate to Idaho. She said that the State can help sponsor a booth for small companies at these types of shows.

RS 24930: **Idaho Global Entrepreneurial Mission (IGEM).** **Megan Ronk** explained that IGEM was established in 2012, and was created to support commercialization partnerships between Idaho's three research universities and private sector companies. **Ms. Ronk** stated the IGEM Council invests in the development of new businesses and supports Idaho's research facilities, creating new products, companies, and high-value jobs while increasing the research capacity of Idaho's universities. A change is necessary to the existing IGEM statute to provide authority to the IGEM Council to establish subcommittee(s) to provide strategic direction to the IGEM Council, to research policy issues, or to advise the IGEM Council on funding decisions.

DISCUSSION: **Senator Anthon** asked why the reference to private sector was crossed out on the Routing Slip (RS). **Ms. Ronk** explained the revision was done by the Legislative Services Office (LSO) because there was a hyphen inserted between the words "private" and "sector" and the hyphen was being removed. **Senator Bock** remarked he was confused and wanted an explanation as to why the addition of subcommittees was necessary. He questioned whether this legislation was necessary since subcommittees would have no authority. **Ms. Ronk** stated that the Attorney General's Office has advised the IGEM Council that because proprietary company information, such as part of a patent application or other types of technology that generally would not be disclosed to the public because it is competitive information were included in IGEM applications, without a formalized subcommittee the IGEM Council potentially would not be protected to view that type of information. **Ms. Ronk** said she would bring an analysis to the Committee from the Attorney General's office that has advised this is an important step to insure that the IGEM Council subcommittee can continue to function.

MOTION: **Senator Anthon** moved to print **RS 24930**. **Senator Martin** seconded the motion. **Senator Lakey** asked Ms. Ronk to make sure the fiscal note reflected why there would be no impact. **Vice Chairman Guthrie** remarked there could be a fiscal impact if a subcommittee had to be paid. **Ms. Ronk** replied the IGEM Council was not asking for any funds, but would manage the amount in appropriation. The motion carried by **voice vote**.

RS 25074: **Relating to Health Savings Accounts (HSA's).** **Senator Thayn** stated HSA's were for State employees. He said the State would deposit a minimum of \$500 into an employee's HSA, which would be budget positive. There would be a one-time fiscal impact of \$68,000 to change the payroll system in the Controller's Office.

DISCUSSION: **Senator Bock** remarked the RS had some gaps and he suggested the RS should be returned to the LSO for revision. He outlined the gaps and said it was not clear to him about whether this would be a contribution of the State or salary deferrals. **Senator Bock** said there was no definition of a high deductible health plan and he was concerned about the designated contribution of \$500, and how high could the amount be increased. He questioned the fiscal impact of \$68,000 and stated it depended on the source and how was there going to be a savings for the State. **Senator Bock** said he did not need an answer now.

Senator Thayn said the fund came from the annual deposit from the Group Insurance Fund. He pointed out the definition of a HSA means an account at a financial institution that is designed to help individuals save for future health care expenses. The fiscal impact is \$14,000 per employee for health insurance,

depending on the deductible. A family HSA must have \$2,600 deductible. An individual could put up to \$1,800 per individual and be budget positive. There is no plan available now.

Senator Ward-Engelking said it was her understanding there is an insurance committee working on the whole package.

MOTION: **Vice Chairman Guthrie** moved to print **RS 25074**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

RS 25094: **Relating to Insurance**. **Lance Giles**, representing Asurion Portable Electronic Insurance Company, said the proposed legislation amends the Idaho portable electronic insurance statute, which was enacted in 2012. All states now have identical or similar statutes in place. **Mr. Giles** stated the relevant portion of the existing statute to be amended provides that a person who purchases a portable electronic insurance policy consents to receiving notices and correspondence electronically if the person provides an electronic e-mail address at the time of sale and simultaneously receives notice of such consent from the insurance company. He said the proposed legislation provides that notice of consent by the consumer shall be made, either by mail or electronic means, within 30 days of the transaction rather than simultaneously. **Mr. Giles** explained that customer and vendor experience throughout the country from 2012 to date shows that providing simultaneous notice is generally not possible given the nature of the transaction. Accordingly, the result of enacting this legislation will allow easier access to electronic communication between a consumer and a portable electronics insurer.

Mr. Giles stated there would be no fiscal impact because the proposed legislation would not require any new regulatory responsibilities or actions by the Department of Insurance. **Mr. Giles** referred Joint Rule 18.

MOTION: **Vice Chairman Guthrie** moved to send **RS 25094** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 25026: **Relating to Submersible Pumps**. **Senator Nonini** said the purpose of the proposed change to Idaho Code § 54-1001A is to clarify 682.10 of the National Electrical Code section. He said this Routing Slip was a cleanup from last year's legislation.

MOTION: **Senator Souza** moved to send **RS 25026** to print. **Senator Thayn** seconded the motion. **Senator Lakey** remarked the fiscal note should be corrected to reflect the reason for the fiscal impact, if any. The motion carried by **voice vote**.

RS 25063C1: **Relating to Insurance**. **Senator Rice** said requirements will be added that insurance companies selling limits type underinsured motorist coverage provide a summary explanation of the effect of such insurance coverage to purchases prior to issuance of the coverage. **Senator Rice** said the purpose of the bill is to make sure people know what they purchased. The insurance company has to provide a notice of how the insurance works.

DISCUSSION: **Senator Bock** asked if these requirements have been reviewed by insurance companies. **Senator Rice** said he has worked with a number of insurance companies in developing this proposed legislation.

MOTION: **Senator Thayn** moved to send **RS 25063C1** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:35 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #2
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 07, 2017

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT	Charlene Ann Maher, Idaho Health Insurance Exchange Board	Charlene Maher
DOCKET NO. <u>15-0401-1601</u>	Rules of the Division of Human Resources and Idaho Personnel Commission	Kim Toryanski, Deputy Administrator, Division of Human Resources
<u>RS24886</u>	Relating to Recruitment and Retention Bonuses	Susan Buxton, Administrator, Department of Human Resources
<u>RS25113</u>	Relating to Bail	Jesse Taylor, Sun Security Insurance Company
<u>RS25128</u>	Relating to Employee Compensation	Senator Guthrie
<u>RS25032</u>	Telehealth Access Act	Senator Keough
<u>S 1003</u>	Nurses - Amends Existing Law to Revise Provisions Regarding Nurse Emeritus Licenses and Renewal and Reinstatement of Nurse's Licenses	Sandra Evans, Executive Director, Board of Nursing
<u>S 1007</u>	Engineers and Surveyors	Keith Simila, Executive Director, Board of Licensure of Professional Engineers and Professional Land Surveyors
<u>S 1008</u>	Surveys	Keith Simila

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick

Sen Souza

COMMITTEE SECRETARY

Linda Kambeitz

Vice Chairman Guthrie
Sen Martin
Sen Lakey
Sen Thayn

Sen Anthon
Sen Ward-Engelking
Sen Burgoyne

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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 07, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Charlene Ann Maher, Eagle, Idaho, to the Idaho Health Insurance Exchange Board, term commencing March 28, 2016 and expiring April 10, 2017. **Ms. Maher** said that she serves as the Chief Executive Officer (CEO) of Blue Cross of Idaho. She gave a brief background about Blue Cross. Blue Cross has been in Idaho for over 70 years. Today Blue Cross provides health insurance coverage to over 500,000 Idahoans and employs 1,000 team members at the headquarters in Meridian, Idaho. **Ms. Maher** reported the mission every day is to serve the State of Idaho by providing access to high-quality healthcare while providing financial peace of mind.

Ms. Maher stated that she was a nurse and decided to change careers. She said she and her family moved to California, which was where she accepted her first position in the health insurance industry and it was a good fit. **Ms. Maher** reported she has been in the health insurance industry for over 25 years and has had the opportunity to work in all areas of the business. She has also had the opportunity to work in the industry on the west coast, the Midwest, and the east coast. **Ms. Maher** said the ability to effectively communicate and problem-solve with State government in Idaho has been better than anywhere she has been.

Ms. Maher said that personally, her priority is her role as mom and grandma. She said her children live all over the world and it is fun to watch them tackle their careers and kids. **Ms. Maher** stated she was honored to receive the appointment to serve by the Governor and grateful for the opportunity to help the State oversee the Your Health Idaho (YHI) Exchange run by Idahoans for Idahoans.

DISCUSSION:

Senator Lakey asked Ms. Maher why she changed her career from nursing to health insurance. **Ms. Maher** said she hurt her back and could no longer lift patients. **Senator Souza** remarked that with changes proposed at the federal level, what did Ms. Maher see will happen with health insurance. **Ms. Maher** explained her role today is to execute the laws. She remarked that Your Health Idaho (YHI) is the best state-run exchange and the YHI Board does not know how the law will evolve. **Ms. Maher** explained the YHI Board would execute the next phase, whatever that may be.

Senator Burgoyne asked Ms. Maher what her vision is for the YHI Board. **Ms. Maher** stated that health insurance is always best when the power and flexibility is at the state level. When the federal government gets involved, there are conflicts. Her focus will be on fixing the challenges. She said she wanted to see Idaho take control of insurance plans for its citizens.

GUBERNATORIAL APPOINTMENT:

Senator Lakey moved to send the gubernatorial appointment of Charlene Ann Maher to the Idaho Health Insurance Exchange Board to the floor with the recommendation that she be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Senator Patrick passed the gavel to Vice Chairman Guthrie.

DOCKET NO. 15-0401-1601

Rules of the Division of Human Resources and Idaho Personnel Commission. **Kim Toryanski**, Deputy Administrator, Division of Human Resources (DHR), said the proposed text regarding DHR Rule 15.04.01, Subsection 086.05, stated that an application for promotion by an employee on entrance probation may not be filed. The pending rule is being revised to state that the application may be filed, and specifies that the employee is ineligible to be certified to a departmental or statewide hiring list until permanent status is attained.

Ms. Toryanski said that negotiated rulemaking was not feasible to conduct due to discussions on a separate matter with state agencies, DHR professionals, and interested parties during the month of August, 2016. The matter related to proposed legislative changes DHR is making to adapt to changes in federal wage, overtime law, and regulation. DHR received three verbal comments. One state agency testified at the hearing. The second paragraph under Descriptive Summary outlines that Rule 86.05 was changed after the comment period.

Ms. Toryanski said the State uses a process to point-factor jobs called the Hay Evaluation Method, which gives a point value to job classifications based on a calculation of know-how, problem-solving, and accountability. DHR oversees and approves the point-factoring of classified jobs when new job classes are created or revised. **Ms. Toryanski** stated DHR was asking to remove the information about Informal Agreements as described since it is not part of the process and has not been for quite some time. The State has used an online application system called the Applicant Tracking System (ATS) for a number of years and DHR has not seen any hesitation from applicants to apply online. **Ms. Toryanski** pointed out that since the mail-in, personal delivery, email, and fax have not been utilized, DHR felt it was time to remove those from the Rule. Applicants use their own computers, or can access the ATS system at libraries and Department of Labor offices around the State. Persons with disabilities would be eligible for a reasonable accommodation.

Ms. Toryanski reported that employees on entry probation have been able to apply for department or state promotions and be placed on the hiring list.

Employees could not be hired until they completed probation. The DHR application system does allow employees on entry probation to apply for promotions, but their name is not put on promotional hiring lists until they have completed probation and obtained permanent status.

The initial proposal said employees could not apply. Prior to the online applicant process, exams were conducted around the State for various positions. Since exams have been taken online using the ATS system, DHR proposes deleting Rule 89.

Ms. Toryanski referred to Limited Service Appointments and said when employees are hired into limited service positions, DHR requires agencies have a written agreement with the employee. Agencies keep this signed agreement in the employee personnel file at the agency. While DHR ensures agencies note completion of the Agreement in the online hiring action that DHR approves, the DHR Administrator does not need to have a copy sent to DHR.

Ms. Toryanski said the statute states employees attain permanent status when 1,040 or 2,080 probationary hours are completed. The agency has 30 days after completion of hours to submit a list of probationary employees.

Ms. Toryanski explained that a "does not achieve" evaluation must be entered in the system at the time DHR is approving a fail to complete probation action in the payroll system. DHR's current process is not to allow an agency up to 30 days after the probationary period to submit the did not approve evaluation. The DHR process allows for timely processing of the employee's final paycheck.

Ms. Toryanski stated that problem-solving meetings are with department representatives in the employee's chain of command. DHR is adding this to the Rule to mirror the statute. DHR is asking to add language that allows the employee and agency to agree in writing to extend problem-solving timeframes, but not to exceed 30 days between each step. The intent of the problem-solving process is to solve problems promptly and at the lowest level in the chain of command. DHR is adding to statute in Idaho Code § 67-5315(4), which includes the chain of command. The information is divided into two sections. When an employee transfers between agencies, the sending agency sends the hiring agency all performance evaluation documents. The Rule states those documents must be "copied." DHR would like to update the language to "provided" since the sending agency may scan and email the documents. When an employee is on Workers' Compensation, that pays 67 percent of wages. The employee may use paid leave (sick, vacation or comp time) for the other 33 percent to receive a whole paycheck. Currently the Rule only states sick leave; however, there are time codes allowing employees to use comp time and vacation while on workers' compensation and/or the Family and Medical Leave Act (FMLA). DHR wants to add that to the Rule.

Ms. Toryanski explained that references to earned administrative leave should be deleted. The old Earned Administrative Leave (EAL) time code, is no longer used.

Ms. Toryanski said the DHR is asking for approval to update the language as the State no longer uses the Medical, Dental, or Optical Appointments (MDA) leave code which allowed employees up to two hours for miscellaneous

doctor appointments, including the Employee Assistance Program (EAP). MDA was removed in 2009, because there was no statutory authority for the rule and there were inconsistencies in the application for employees, and it was determined medical appointments were covered under sick leave. Additionally, the employee can use comp time or vacation, as approved, for medical or for EAP appointments.

DISCUSSION:

Senator Martin referred to a seasonal employee and asked for a the definition. He asked if the rule would give an individual the power to declare any day as a holiday. **Ms. Toryanski** replied the definition of a seasonal employee would vary depending on the agency and the type of employee. She said the language in the rule reflected federal law.

Senator Lakey asked if the term "holiday" was enumerated in federal law. **Ms. Toryanski** explained that the references were to holidays that were recognized by state or federal law. **Senator Lakey** asked if seasonal employees were hired for a limited period of time. **Ms. Toryanski** said that was correct. **Senator Lakey** remarked that federal identified holidays tended to be one-day holidays, but was the Christmas season defined. **Ms. Toryanski** replied that the DHR has not gone so far as to define that season, however the intent was to recognize the Christmas season. She gave an example of the liquor division that has to hire additional sales clerks for the holiday season, or a "seasonal" employee.

Senator Anthon asked if there was anything in the regulations that defines the amount of time a seasonal employee can be hired. **Ms. Toryanski** said that time is designated at 1,385 hours.

MOTION:

Senator Martin moved to approve **Docket No. 15-0401-1601**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

RS 24886

Relating to Recruitment and Retention Bonuses. **Susan Buxton**, Administrator, Department of Human Resources (DHR), said the purpose of this Routing Slip (RS) was to clarify ambiguity in Idaho Code § 67-5309D(3) for the implementation, authorization, and enforcement of the issuance of recruitment and retention bonuses. During February 2016, due to ambiguity in the code authorizing recruitment and retention bonuses, the use of recruitment and retention bonuses was suspended. There were questions regarding the implementation and authorization of those bonuses.

Ms. Buxton said the pending legislation would allow recruitment and retention bonuses to continue to be utilized within existing agency budgets. Enforcement collection of recruitment and retention bonuses will be conducted by the agencies and the DHR using current resources.

Ms. Buxton explained this amendment has been requested in order to reduce ambiguity and improve utilization of bonuses as a tool for agencies to recruit and retain state employees. This section allows, after at least six months of achieving performance standards, a department director to award a bonus. The new language in the RS, subsection 3, lines 37-41, addresses the means to enforce the terms of the award of the bonus in the event the employee leaves state service prior to the completion of the recruitment or retention timeframe. The department director and the DHR may seek repayment of the bonus from accrued vacation funds or utilize other lawful remedies. This RS

provides the agency director and DHR the authority and flexibility to recoup bonuses.

DISCUSSION: **Senator Thayne** asked what the legal remedies would be. **Ms. Buxton** said the legal remedies would be a contract identifying the term before recruitment. Options would be for weeks or months and if there was accrued vacation the amount would be taken out of vacation funds. Small claims court is another option for obtaining a judgement against that person. Most people return the money. **Senator Souza** remarked this is a common practice and said she was surprised this has not been a part of statute until now. **Ms. Buxton** clarified that this statute has been in Idaho Code, but the practice had been suspended until there was a review.

MOTION: **Senator Thayne** moved to print **RS 24886**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 25113 **Relating to Bail.** **Jesse Taylor**, representing Sun Security Insurance Company, said this Routing Slip (RS) amends the Idaho Bail Act to include notification to the surety insurance company on file by the clerk of the court of a forfeiture by mailing a notice within five business days of the order. He noted there is no fiscal impact to the General Fund because notification will be done by mail at a minimal cost and covered by the clerk of the court's operating budget.

MOTION: **Senator Lakey** moved to print **RS 25113**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 25128 **Relating to Employee Compensation.** **Vice Chairman Guthrie** said the intent of this legislation is to remove language that could be construed as proprietary and specific to one particular vendor. The proposed legislation will also require any salary and benefit study to show as part of market comparisons data specific to Idaho public and private sector employers. **Vice Chairman Guthrie** noted that these surveys are already being done on an annual basis and Idaho data is already being collected. The cost to reflect this data separately in a report will be minimal at most.

DISCUSSION: **Senator Martin** asked if this proposed legislation came from the information received from the Change in Employee Compensation Committee (CECC). **Vice Chairman Guthrie** explained that the proposed legislation stemmed from the CECC that he has participated in for the last few years. He stated he wanted to have a baseline established with Idaho information for comparison. There has been some concern about having a named group in legislation. A definition of the Hay point method and what is depicted in the criteria is spelled out.

Senator Ward-Engelking said when the bill comes before the Committee, she asked Vice Chairman Guthrie to talk more about the proposed legislation being Idaho-specific and also asked that in addition other states be included.

MOTION: **Senator Souza** moved to print **RS 25128**. **Senator Thayn** seconded the motion.

Senator Burgoyne asked if Vice Chairman Guthrie was relating the annual survey to the labor market or was he asking for a job-by-job, gross or aggregate comparisons. **Vice Chairman Guthrie** said it was his understanding that most of the data was already being collected. He stated he wanted to have data specific to Idaho. He remarked competition goes beyond the State of Idaho. **Senator Burgoyne** said he thought that Vice Chairman Guthrie was looking for aggregate data.

The motion carried by **voice vote**.

RS 25032

Telehealth Access Act. **Senator Keough** said the purpose of this legislation is to bolster the success of Idaho's Telehealth Access Act which can be found in Idaho Code §§ 54-5701 through 54-5713. This legislation, if enacted, would allow for costs of telehealth services to be covered in the same manner and to the same extent as if the services were delivered in person. **Senator Keough** stated that it is the purpose of this legislation to aid in implementation of Idaho's Telehealth Access Act by: improving timely access to consultations without long travel and loss of work time; decreasing health care fragmentation which improves patient experience; reducing cost for patients and payors through better management of chronic disease and better access; increasing patient access to providers that might be otherwise unavailable due to distance; and improving health quality, equity, and affordability for all Idahoans.

Senator Keough noted there is no fiscal impact to the State General Fund. There is no fiscal impact on local government funds. She said there will likely be a fiscal impact to health carriers and other entities as outlined in the bill. That fiscal impact will vary depending upon policies and utilization. Conversely, the fiscal impact may be less, as covering the cost of telehealth services may result in catching illness in a preventative manner because access to health care is more easily available. The fiscal impact for citizens utilizing telehealth services may be positive, as costs of travel and time may go down as access to medical care can occur via telehealth systems. The fiscal impact for health care providers may be positive as they may be reimbursed for the cost of their service at the same level as an in-office visit.

DISCUSSION: **Senator Souza** commented this was a concern of hers and was glad this has been moved forward. She asked if the charge would be the same as if the patient traveled to the doctor or would it be set by each doctor. **Senator Keough** said she did not have an answer yet. There is a cost involving multiple layers of bookkeeping. **Senator Souza** said that if this Routing Slip was printed, she would ask for medical professionals to be available to answer questions.

Senator Burgoyne referred "to the same extent" on line 12, and wanted to know if the cost would be less or a quantitative value. He asked for more information when the bill is heard. **Senator Keough** said she would try to bring clarity when the bill is heard.

MOTION: **Senator Martin** moved to print **RS 25032**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

S 1003

Nurses - Amends Existing Law to Revise Provisions Regarding Nurse Emeritus Licenses and Renewal and Reinstatement of Nurse's Licenses. **Susan Evans**, Executive Director, Board of Nursing (BON), said an "emeritus license" is issued to a nurse whose license is in good standing who chooses to retire from active practice but who wishes to continue to use the protected title of Registered Nurse, Licensed Practical Nurse or Advanced Practice Registered Nurse. **Ms. Evans** explained that an emeritus license, once issued, is identified as "inactive" and does not authorize the holder to engage in nursing practice until such time that the license is reinstated to active status. **Ms. Evans** explained **S 1003** amends Idaho Code § 54-1410, by eliminating the necessity for a retired nurse to biennially renew an emeritus status license. This proposed legislation provides a benefit to nurses who have retired from practice by eliminating the renewal application process and related fees. **Ms. Evans** said **S 1003** will have an estimated negative annual fiscal impact of less than \$5,000 on the BON's dedicated fund. The BON current fund balance supports this revenue loss without the need to raise license fees. There is no impact on the State's General Fund.

DISCUSSION:

Senator Souza commented she appreciated the emeritus status. She praised the bill saying the bill has all upside and no downside for the nursing profession. She asked if there had been any negative feedback. **Ms. Evans** said there were no comments received.

MOTION:

Senator Guthrie moved that **S 1003** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

S 1007

Engineers and Surveyors. **Michael Kane**, representing the Board of Licensure of Professional Engineers and Professional Land Surveyors (IPELS), said the amendment authorizes the IPELS Board to require mediation of disputes between licensed land surveyors. The purpose is to reduce the prospect of litigation between property owners related to boundary disputes based on differing placement of corners by land surveyors. **Mr. Kane** noted this legislation will have no fiscal impact on the General Fund or the IPELS Board dedicated fund. There is no fiscal impact because the IPELS Board has no direct involvement in the mediation between land surveyors except to require them to engage a mediator to resolve their disputes. The Act does not create any new State program and does not compel any State action.

DISCUSSION:

Senator Martin referred to the word "may" on line 6 referring to the IPELS Board and said he assumed the IPELS Board has the option of requiring surveyors to go to mediation. He referred to the word "require" and said he thought that referred to the parties and that the IPELS Board has the power to require the surveyors to mediate. He wanted to know what the mediation process was and whether it was binding or non-binding. **Mr. Kane** said mediation would be used only in appropriate cases and was not binding on anyone. He said the purpose of mediation was to try to avoid court.

Senator Lakey if an agreement is not reached through mediation, would the problem be referred back to the IPELS Board for a decision. **Mr. Kane** remarked the IPELS Board would have to decide what to do.

Senator Guthrie wanted to know what the limit of costs were and what was the split for mediation. **Mr. Kane** explained that it is up to the parties, but most of the time the costs are split in half. Sometimes one party agrees to pay more. He commented that if the parties disagree on that, then they will not agree on a final result. **Mr. Kane** stated that mediation usually takes a day, but compared to litigation, it is a much cheaper way of avoiding costs.

Senator Burgoyne remarked that it appeared there was a licensing board that has licensing powers and if a decision was made, discipline could take place. If two land surveyors breach, is this mediation designed to make the problem go away. He asked if the IPELS Board had a duty to respond to allegations. **Mr. Kane** explained that in the Rules of Professional Responsibility there is a clause that says that if a discrepancy is found, surveyors are supposed to talk about it, but very often that does not happen. **Mr. Kane** said that once people are communicating, they come to an agreement and revise their work if necessary and problems get solved. Sometimes there may be a disciplinary issue which could end up being a reprimand.

Senator Burgoyne said it was his understanding that land surveyors have legal duties and surveys they issue have legal consequences. If a land surveyor agrees to undo a survey, do other legal problems arise from a legal difference from the first survey. **Mr. Kane** explained there is another rule in place that if a mistake is made, the surveyor has a duty to make a correction. The survey must be corrected and amended at the county courthouse.

Senator Burgoyne remarked that he thought mediation was good, but the public should not be put in the middle.

Senator Anthon remarked he was a fan of mediation. He referred to paragraph 6 where the IPELS Board recommends arbitration and asked why not have mediation for professional engineers. **Mr. Kane** remarked that arbitration can be very expensive. Engineers do not have these types of problems and their decisions do not affect property owners.

Senator Lakey commented that what the IPELS Board was dealing with was a complaint with licensure or disciplinary performance. **Mr. Kane** said yes.

Senator Lakey gave an example of two surveyors who disagreed over a technical matter or a matter of art and one surveyor was doing their best, but both argue they are correct, the court of law is the arbiter. **Mr. Kane** said that was correct and the public had to be protected.

Chairman Patrick announced that the last item on the agenda, **S 1008** would be held for a week due to lack of time. He said testimony for **S 1007** would be limited for to two minutes.

TESTIMONY:

Wesley Hoyt, attorney for Dorothy Walker and property owner representing himself, said his property is near where the lines are being moved. He said the change could affect everyone. He remarked there were problems and he was involved in three different lawsuits. **Mr. Hoyt** remarked that property owners concerns do not seem to be recognized until a lawsuit occurs. Mediation does not involve the landowner and that concerns of the landowner should be paramount.

Senator Martin remarked this bill deals with land surveyors but not landowners. He said land surveyors are required to talk to landowners. This bill could be amended to require land surveyors to mediate with advice and consent of the land owners.

Senator Thayn asked what impact this bill would have on current litigation. **Mr. Hoyt** commented that this bill has an indirect effect and additional pressure may be added, but there may be a benefit too. **Mr. Hoyt** referred to another attorney, Mark Lunders, who was available by phone.

Mr. Kane said the reason landowners are not involved is because the

IPELS Board has no authority over landowners, but landowners could attend mediation.

Vice Chairman Guthrie asked that if surveyors agree during mediation, would that be binding and does permission have to be granted by property owners. **Mr. Kane** said only if surveyors agreed and they would have to fix the problem by filing a correction in the county in question. The landowner could still contest the issue in court. The purpose of mediation is to protect people from going through litigation.

MOTION:

Senator Martin moved that **S 1007** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

Senator Burgoyne remarked the IPELS Board has rulemaking authority and this change is important because it protects the public.

Senator Lakey said he was in support of the bill because mediation is discretionary and not binding. The IPELS Board is not making the decision as to where the boundary lines are on a piece of property.

Vice Chairman Guthrie said this bill puts private property and private land owners in the arena. Mediation will be costly. Surveyors do not have to mediate. He said he was not in support of this bill.

The motion carried by **voice vote**, with **Vice Chairman Guthrie** and **Senator Thayne** requesting that they be recorded as voting nay.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:04 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 09, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of January 26, 2017	Senator Anthon
<u>RS25140</u>	Concurrent Resolution Directing the Department of Administration to Provide State Officers or Employees With A Health Transparency Tool or a Medical Diversion Program	Senator Thayn
<u>RS25114C1</u>	Relating to Insurance Dividends and Other Distributions	John Mackey, United Heritage Financial Group
<u>RS25168</u>	Relating to Protection of Public Employees	Senator Lakey
<u>RS25195</u>	Relating to Insurance - Motor Vehicle Service Contracts	Lance Giles, Motor Vehicle Protection Products Association
<u>RS25225</u>	Relating to Casualty Insurance Contracts	Senator Patrick
<u>RS25198</u>	Relating to the Limited Lines Travel Insurance Act	Sarah Bettwieser, U.S. Travel Insurance Association
<u>RS25229</u>	Relating to Procurement by Political Subdivisions	Senator Den Hartog

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 09, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of January 26, 2017. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

Chairman Patrick announced he was moving RS 25229 to the beginning of the agenda as Senator Den Hartog had to testify at another meeting.

RS 25229 **Relating to Procurement by Political Subdivisions. Senator Den Hartog** said this bill modifies and updates the procurement statutes related to political subdivisions. Modifications include changes to dollar threshold amounts for both informal and formal bid processes, a change in the delegation of procurement authority for County Commissioners, and exemption and bonding changes related to some types of public works projects.

Senator Den Hartog explained there is no impact to the General Fund. It is anticipated that the changes will not have a direct financial impact on political subdivisions, but will provide for a more streamlined and efficient procurement process.

DISCUSSION: **Vice Chairman Guthrie** asked for clarification as to whether the change in the delegation of procurement authority for County Commissioners was clear enough. **Senator Den Hartog** said the change was clear enough to be delegated to elected officials at the county.

MOTION: **Senator Anthon** moved to print **RS 25229**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 25140 **Concurrent Resolution Directing the Department of Administration to Provide State Officers or Employees With A Health Transparency Tool or a Medical Diversion Program. Senator Thayn** stated the resolution directs the Department of Administration (DOA) to either provide a transparency tool for State employees on a State website or work with a vendor to establish a medical diversion program. A key to reducing medical costs is for consumers to have price information.

Senator Thayn said a website transparency tool would cost approximately \$100,000. A medical diversion program would cost approximately \$1.8 million annually, which would be offset by up to a 15 percent reduction in the State employee health insurance product. The total 2018 cost is estimated to be \$241 million. A 15 percent reduction would be a savings of \$36 million.

DISCUSSION: **Senator Burgoyne** wanted to know if the fiscal note was only a suggestion or if the note was a \$100,000 transparency note. **Senator Thayn** explained if the transparency tool was chosen, the cost would be \$100,000. A medical diversion program would cost approximately \$8 per member with a total of \$1.8 million. **Senator Burgoyne** wanted to know if the DOA was obligated to institute this program. **Senator Thayn** said this was an opinion. **Senator Burgoyne** remarked he liked the transparency tool and asked if the tool would be available for everyone in Idaho or for employees of the State only. **Senator Thayn** explained the tool was for State employees.

MOTION: **Senator Souza** moved to print **RS 25140**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 25114C1 **Relating to Insurance Dividends and Other Distributions.** **John Mackey**, representing United Heritage Financial Group, said this legislation is intended to clarify the term "realized capital gains" as used in the calculation under Idaho Code § 41-3812(1)(b) in determining whether a dividend or distribution is extraordinary or non-extraordinary. The notice and approval requirements vary. While the current statute is silent as to how capital losses are factored into the calculation, the language in Idaho Code § 41-3812(1)(b) has been interpreted by the Department of Insurance (DOI) to mean net realized capital gains or losses. Insurance companies strategically manage their investment portfolios on a net basis as a sound business practice. This legislation will clarify the language to ensure that the calculation appropriately takes into account realized capital gains or losses and uses the net amount in the calculation to determine whether a dividend or distribution is extraordinary or non-extraordinary. **Mr. Mackey** said there was no opposition to this proposed legislation and the DOI supported the amendments.

Mr. Mackey explained there is no fiscal impact to the General Fund or any other State fund or expenditure. This legislation merely clarifies the calculation of a formula which has no fiscal impact.

Mr. Mackey explained a determination is based on a lesser of two measure, one of which is 10 percent of surplus. There is no issue with the surplus measure. The other is net gain from operations. It is the net gain from operations or net income measures that require clarification. Insurance companies strategically manage their investment portfolios on a net basis as a sound business practice.

Mr. Mackey stated that while the current statute is silent as to how capital losses are factored into the calculation, the language in Idaho Code § 41-3812(1)(b) has been interpreted by the DOI to mean net realized capital gains or losses. The statute does not specifically include the term "net" and does not reference losses.

Mr. Mackey noted this housekeeping measure involves adding the words "net" and "or losses."

MOTION: **Senator Burgoyne** moved to print **RS25114C1**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

Relating to Protection of Public Employees. **Senator Lakey** said the proposed amendment would make the subsection consistent with the title and other subsections by adding the same language regarding protections for employees who report the violation of government waste or a violation of law, rule or regulation under the Whistleblower Protection Act, Idaho Code § 6-2104. The language is included in Idaho Code § 6-2104(1), (3), and (4) and the amendment would add it to subsection (2). The clarifying language will specify that an employee is protected from employer retaliation when participating or revealing information in an investigation, hearing, court proceeding, legislative or other inquiry.

Senator Lakey cited a recent court case where an individual prevailed at the district court level because the validation regarding the employee did not pertain to government waste or violation of the law. The individual appealed to the Supreme Court. The Supreme Court took a literal view and said that despite the apparent intent of the Whistleblower Protection Act, the literal language did not require that the Act relate to government waste or a violation of the law. Participation in any investigation or administrative review is protected. **Senator Lakey** explained that this proposed legislation does is to insert language that is similar to Section 1 and the other sections that tie the investigation to the existence of any waste of public funds, property or manpower or a suspected violation of the law, rules, or regulation.

Senator Lakey stated there is no quantifiable fiscal impact to the General Fund or to other political subdivisions because the numbers and types of claims that may be asserted are unknown. There may be a savings in limited exposure to liability by all levels of government.

DISCUSSION:

Senator Burgoyne said he thought the amendment included substantial changes. **Senator Lakey** said the amendment added language that makes the subsection consistent with the title. **Senator Burgoyne** remarked public employees would no longer have any protection from testifying. **Senator Lakey** explained the intent of the language was not to take action against those subject to a subpoena. He offered to explore the effect on an employee and possibly amend the Routing Slip (RS).

Vice Chairman Guthrie asked if an employee was trying to cause trouble without any merit, what recourse did the employer have to stop this type of activity. **Senator Lakey** said that an employer could not take adverse action if the employee communicated in good faith regarding the existence of waste of public funds, violation or suspected violation of the law, or a rule or regulation in the State of Idaho.

Senator Souza asked about if an employee was part of uncovering waste or fraud speaks up, but a year or two later the employee's performance is not up to standards, the employee is asked to leave or given a demotion, does the agency have any recourse in terms of performance of the employee, not based on any protections in the future. **Senator Lakey** remarked the matter of the burden of proof is on the employer. The employer would have to provide documentation as to why the employee was terminated or given a demotion.

MOTION: **Senator Anthon** moved to print **RS 25168**. **Vice Chairman Guthrie** seconded the motion.

Senator Burgoyne said he was going to vote no. He explained that he did not think the change was small. He explained that today an employee who is involuntarily called into a hearing or an investigation and is subpoenaed to testify and tells the truth against the interest of his or her bosses, has protection under this statute, no matter what the nature of the investigation or testimony. What this change will do is limit protection. The language in this RS is going to remove all protection unless it has to do with waste of public funds, property or manpower, or a violation or suspected violation of law, rule or regulation. Employees could hold out in fear of retaliation. He remarked this was a huge and potentially dangerous change.

Senator Anthon remarked all of the questions were good and he could see that what is being advanced in the RS is to provide protection for State employees and not to punish them for reporting. There will be a bigger question when this RS becomes a bill. Retaliation is a number one issue.

The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

RS 25195

Relating to Insurance - Motor Vehicle Service Contracts. Lance Giles, representing the Motor Vehicle Protection Products Association (MVPPA), stated this proposed legislation would amend the Idaho Motor Vehicle Service Contract Act in four significant ways. First, it would move the authority to enforce the Act from the Idaho Attorney General to the Idaho Department of Insurance (DOI). Second, it would clarify the definition of a service contract to expressly authorize the following types of contracts: contracts to repair or replace tires or wheels damaged by road hazards; contracts to repair or replace windshield damage by road hazards; contracts to remove dents and dings in a vehicle without sanding, bonding, or repainting; and contracts to repair or replace lost, stolen, or damaged vehicle key-fobs. Third, it would give the Director of the DOI the power to approve other similar service contracts not enumerated in the Act. Fourth, it would add a new chapter to regulate the warranties associated with theft protection products installed on vehicles, such as steering column locks, tracking devices, and vehicle etching.

Mr. Giles pointed out consumers are seeking the coverage provided by these products and neither insurance coverage, warranty coverage, nor traditional vehicle service contracts offer the range and specificity of coverage provided by the products that are expressly enumerated in the proposed legislation. Many consumers discover the lack of coverage only when a repair becomes necessary. The industry is seeking uniform treatment of these products across the country for business consistency and predictability.

Mr. Giles stated that consultation occurred with the DOI, the Idaho Attorney General's Office, the Idaho Automobile Dealers' Association, and their recommendations were incorporated into this legislation. There were no objections to the proposed legislation.

DISCUSSION: **Senator Martin** asked why this proposed legislation would move the authority to enforce the coverage from the Idaho Attorney General to the DOI. **Mr. Giles** said that in a majority of the States regulation is done by the DOI. The change is for consistency and predictability.

Senator Burgoyne wanted to know if these warranties and vehicle service contracts were insurance. **Mr. Giles** said no. **Senator Burgoyne** said by transferring contracts and warranties to the DOI, is the Insurance Guarantee Association at risk to stand behind any vehicle service contract or were warranty companies at the risk of not being able to pay claims. **Mr. Giles** stated he was not sure and he would have to find out.

Senator Souza asked if there had been a problem that prompted this change. **Mr. Giles** said there was not a specific problem, but his office was contacted by the MVPPA to address consistency throughout the country, which was the impetus for this legislation.

MOTION: **Senator Martin** moved to print **RS 25195**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

RS 25225

Relating to Casualty Insurance Contracts. **Chairman Patrick** said this bill eliminates the problem of phantom insurance and reduced payments for benefits paid by others. It provides that when a citizen purchases motor vehicle underinsurance coverage, the purchaser receives the stated benefit provided on the declarations page. This prevents an insurance company that receives a premium for underinsured coverage from taking credit for benefits paid by other insurance companies. It further limits the benefits recoverable to the purchaser's actual losses or the amount of coverage purchased, whichever is less.

Chairman Patrick said this bill makes a change to Idaho Code § 41-2503. Currently if a person has underinsured motorist coverage, the insurance company may reduce benefits dollar-to-dollar to the amount of coverage. If the person who caused the accident has \$25,000 in liability coverage and there is \$25,000 in underinsured motorist coverage, the total coverage between the two policies is \$25,000, not \$50,000. **Chairman Patrick** explained that what this bill does is make certain that an insurance policy covers the first \$25,000 in liability and if uninsured motorist coverage was purchased, that is considered additional insurance. This change would eliminate the ability of an insurance company to offset coverage and have the policyholder pay premiums on phantom insurance.

Mr. Giles explained there is no fiscal impact to the General Fund as this applies to insurance companies who provide motor vehicle insurance policies. Some motor vehicle insurance companies already voluntarily provide this type of coverage and their premium rates are competitive with companies who do not currently adhere to this policy.

MOTION: **Senator Thayn** moved to print **RS 25225**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Guthrie passed the gavel to Chairman Patrick.

Relating to the Limited Lines Travel Insurance Act. Sarah Bettwieser, representing the United States Travel Insurance Association, stated this legislation would authorize the Department of Insurance (DOI) to issue limited lines travel insurance producer licenses to qualified applicants who provide travel insurance through travel retailers. The legislation requires the licensed limited lines travel insurance producer and the travel retailer to meet administrative and disclosure requirements, such as including the producer's identification information and making certain disclosures to the consumer in the marketing materials and fulfillment packages, and requiring the producer to establish and maintain a transaction record.

Ms. Bettwieser said this legislation has no fiscal impact on local government or to the General Fund. There will be a small incremental increase in cost to the DOI for issuing licenses and the general regulation of licensees. As with the regulatory cost for all DOI licensees, the cost associated with the issuance of licenses will be offset by the fees for licensure.

Ms. Bettwieser stated travel insurance includes coverage for cancelled or interrupted trips, medical and dental emergencies, lost or damaged baggage, damaged or stolen rental cars, and travel supplier bankruptcies. The need for this legislation stems from regulatory inconsistencies among the states which are driven by a number of underlying factors, reflecting both the realities of the market and the regulatory approaches of the states.

Ms. Bettwieser explained that travel agents who distribute travel insurance are not in the business of insurance or are they perceived to be by consumers. Travel insurance products are rarely, if ever, offered by insurance agents who sell major lines of insurance, such as property and casualty or health coverage. In the modern market, travel agents may do business in one state or many states and can often not reasonably predict the state or states in which they might do business as they could receive a call from anywhere for travel services. **Ms. Bettwieser** pointed out that the National Association of Insurance Commissioners (NAIC), as well as the National Conference of Insurance Legislators (NCOIL) have recognized the issues with limited lines licensing and have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance through travel retailers. The NAIC standards and the NCOIL Model Act are the framework for this proposed legislation.

Ms. Bettwieser said this legislation will allow a travel retailer to offer and disseminate travel insurance under a licensed insurance provider, but only if certain consumer protections are met. The legislation requires the licensed limited lines travel insurance producer and the travel retailer to meet administrative and disclosure requirements. Certain disclosures to the consumer are required in the marketing materials and fulfillment packages, and requires the producer to establish and maintain a transaction record.

Ms. Bettwieser explained the DOI is supportive of this legislation and she is not aware of any opposition. This legislation is in place in 44 other states, including surrounding states.

DISCUSSION: **Senator Lakey** asked if this legislation would allow travel agents to do something they cannot currently do. **Ms. Bettwieser** said that everyone who sells insurance in Idaho has to be a limited lines producer.

MOTION: **Senator Martin** moved to print **RS 25198**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:14 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 14, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of January 31, 2017	Senator Souza
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of Dr. John Rusche, Idaho Health Insurance Exchange Board	Dr. John Rusche
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of Representative Terry Gestrin, State Insurance Fund Board	Representative Gestrin
<u>S 1008</u>	Relating to Surveys	Keith Simila, Executive Director, Board of Licensure of Professional Engineers and Professional Land Surveyors
<u>S 1047</u>	Relating to Submersible Pumps	Senator Nonini
PRESENTATION	Idaho Workforce Development Training Fund and Unemployment Insurance	Ken Edmunds, Director, Idaho Department of Labor

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 14, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the Commerce and Human Resources Committee (Committee) to order at 1:31 p.m.

MINUTES APPROVAL: **Senator Souza** moved to approve the Minutes of January 31, 2017. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Dr. John Rusche, Lewiston, Idaho, to the Idaho Health Insurance Exchange Board, term commencing April 10, 2017 and expiring April 10, 2020. The hearing was held via teleconference. **Dr. Rusche** summarized his experience from 2004 through 2016 as a Representative in the House. He remarked he held positions on several committees. From 1995 to 2005, **Dr. Rusche** was Senior Vice President and Chief Medical Officer for Regence Blue Shield of Idaho in Lewiston, Idaho. During the years of 1980 through 1995, Dr. Rusche was a general pediatrician.

DISCUSSION: **Dr. Rusche** stated that going forward, he was not sure what the federal government was going to do with the Affordable Care Act (ACA). There is a need for a market for individual insurance that people know how to use. He stated that Your Health Idaho (YHI) will be operational for a while and he would like to continue to help the operation run smoothly.

Senator Souza asked if the federal government changed the individual mandate, did Dr. Rusche see the YHI Exchange as an open market across state lines. **Dr. Rusche** said that insurance options could open up across state lines as people will want to buy insurance and have the ability to compare benefits and costs for pharmaceutical formularies, network, co-pays, and deductibles. The ability to present that information will be there whether there is a mandate for insurance or not. **Dr. Rusche** said health insurance is not simple as there are many variations. If there is no mandate to have insurance, stress will be put on the public system with catastrophic programs and the burden will be more than the healthcare system can bear. Idaho will have to do the best as possible when the federal mandate is handed down. Each state has different minimum requirements and Idaho has one of the lowest in the country. If California and Idaho insurance options were pooled, costs may go down, but with minimum consequences.

Senator Lakey asked Dr. Rusche what position he was filling on the YHI Board. **Dr. Rusche** said he was filling the consumer position.

**GUBERNATORIAL
APPOINTMENT:**

Senator Burgoyne moved to send the gubernatorial appointment of Dr. John Rusche to the Idaho Health Insurance Exchange Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Chairman Patrick stated the Gubernatorial Appointment and Hearing for Representative Terry Gestrin would be heard upon his arrival.

S 1008

Relating to Surveys. **Keith Simila**, Executive Director, Board of Licensure of Professional Engineers and Professional Land Surveyors (IPELS), said the purpose of the bill is to clarify that the basis of bearing must have two existing monuments (angle relative to true north). Surveyors need to occupy two monumented corners in order to properly align the coordinates of different surveys. The basis of bearing enables succeeding land surveyors to set up on the same line to start their new survey. This creates maps that can be compared equally to each other, reducing the likelihood of misinterpreting the location of property boundaries. It is important that succeeding land surveyors be able to physically occupy the same two points in order for succeeding surveys to be comparable. The amendment clarifies that the two locations must physically be located on the ground and not calculated points or missing monuments. There is no fiscal impact to the IPELS Board or the General Fund.

DISCUSSION:

Senator Burgoyne asked when there were two monumented corners, did that mean there was a physical monument present. **Mr. Simila** said that monuments can be more than just corners and can also be a non-corner. As long as two monuments that are on the ground are chosen and are physical objects, those are monuments.

Chairman Patrick asked if a fire hydrant would serve as a monument. **Glenn Bennett**, IPELS Board member, explained that a fire hydrant could be a reference to a corner, but could not be used as a definition for a corner.

Senator Thayn stated that surveying has been going on for a long time, so why should there be clarification now. **Mr. Bennett** said that there have been ongoing questions by surveyors in defining that the basis of bearing must have two existing monuments physically located on the ground and not calculated points or missing monuments. He remarked the IPELS Board is trying to clarify to the public that two physical monuments must be tied together.

Senator Burgoyne asked what if there was a monument that was removed or never placed. **Mr. Bennett** explained it was incumbent on the surveyor to replace the monument and put it in the correct place without having to do a full survey.

Senator Thayn asked if there had been problems in the past with the placing of monuments. **Mr. Bennett** said that surveyors have asked questions of the IPELS Board about monument placement and the IPELS Board was trying to clear up the confusion and clarify that the basis of bearing must have two existing monuments.

Vice Chairman Guthrie asked if there was an increase in cost for the survey. **Mr. Bennett** said that there was not an increase and that monuments have to be replaced if they are missing. **Vice Chairman Guthrie** commented that this legislation is requiring the physical evidence of a monument being placed in the correct location.

MOTION: **Senator Martin** moved that **S 1008** be sent to the floor of the Senate with a **do pass** recommendation. **Vice Chairman Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1047 **Relating to Submersible Pumps.** **Senator Nonini** said the purpose of the proposed change to Idaho Code § 54-1001A is to clarify § 682.10 of the National Electrical Code (NEC). The fiscal impact is a projection of the direct, current and public costs and associated revenues. He said this legislation was a cleanup from last year's legislation. **Senator Nonini** remarked listed submersible well pumps are approved for use in lakes, rivers, ponds and streams in Idaho. However, Articles 110.3(A), 110.3(B), and 682.10 of the NEC relating to specific use of the pumps will not apply, nor will this section affect any electric supplier. The Division of Building Safety (DBS) has been directed to promulgate rules governing the use, inspection, and safety of submersible well pumps in Idaho's lakes, rivers, ponds, and streams.

DISCUSSION: **Senator Burgoyne** asked for a summary of what is in Articles 110.3(A), 110.3(B), and 682.10 of the NEC that are being exempted. **Warren Wing**, Electrical Program Manager, DBS, explained that the DBS was exempted last year from statute. Manufacturer's instructions and the use of specific equipment are exempted.

Senator Nonini said this will sunset in 2018 and it is important to districts to get this change resolved within the next year.

MOTION: **Senator Lakey** moved that **S 1047** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Representative Terry Gestrin, Donnelly, Idaho, to the State Insurance Fund Board, term commencing December 1, 2016 and expiring December 1, 2018. **Representative Gestrin** stated he has served on the YHI Board for a number of years. He now represents the House of Representatives on the YHI Board and this is a reappointment. He explained he has extensive experience of serving on boards and has an insurance background.

Senator Lakey disclosed a potential conflict according to Senate Rule 39 (H) for the record but intended to vote, that he currently serves on the State Insurance Board.

GUBERNATORIAL APPOINTMENT: **Senator Lakey** moved to send the gubernatorial appointment of Representative Terry Gestrin to the State Insurance Fund Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Idaho Workforce Development Training Fund and Unemployment Insurance.** **Ken Edmunds**, Director, Idaho Department of Labor (IDOL), presented a PowerPoint presentation. **Mr. Edmunds** explained Idaho's workforce challenges consisted of: a shortage of a skilled workforce; college and career readiness; industry expectations for training; and technology. There is a shortage of approximately 50,000 people just to fill jobs.

Senator Souza asked if the gaps that were just outlined took into account the number of people who were unemployed for so long and fell off the statistical rolls and are still not being trained for another set of skills. **Mr. Edmunds** said that IDOL is trying to place people into different skill sets by training. People across-the-board are not ready for jobs because they are not qualified.

Mr. Edmunds outlined the IDOL role. He noted that the IDOL is primarily federally-funded with a \$100 million appropriation. The IDOL has a broad range of responsibilities. Embodied in those responsibilities are unemployment insurance, including taxes and benefits; wages and hourly rates; the Human Rights Commission, Disability Determination Services (Social Security Administration or SSA); serving Idaho; and veteran's services. There is a current emphasis on workforce development.

Mr. Edmunds reported the workforce development labor connection included the Workforce Development Training Fund. Within the labor connection there are 25 offices connecting industry and education, and the career information system. Current initiatives are Apprenticeship Idaho, the Hispanic Initiative, Corrections, and other opportunities.

Mr. Edmunds described the initiatives and grants being used by IDOL. The grant for Apprenticeship Idaho is \$1.4 million; the Disabilities Employment Initiative is \$2.5 million; the Re-Employment Service Portal grant is \$1.09 million. Initiatives include Volunteers in Service to America (VISTA) and the Inspiring Futures Program. He remarked that AmeriCorps Future in Action will provide up to 20 staff placed in rural schools.

Mr. Edmunds explained the purpose of the unemployment insurance tax relief bill was to reduce the unemployment insurance taxes paid by businesses. There has been \$115 million in savings over three years. There has been a formula change for the risk multiplier in order to determine what the reserves should be. During the Great Recession, the IDOL had to borrow over \$200 million to stay afloat. However, by 2020, the IDOL should have over \$2 million in reserves. **Mr. Edmunds** outlined the necessary "fund size multiplier" for combined trust fund solvency during various levels of economic contraction. He noted that when there is a small contraction in the economy, a 1.0 fund size multiplier would keep the combined trust fund solvent. When there is an average recession, a 1.15 fund size multiplier would work, and when there is a Great Recession, a 1.30 fund size multiplier would be needed. **Mr. Edmunds** said the IDOL proposes a 1.3 fund size multiplier cap.

Mr. Edmunds said there is a tax savings projection in 2018 of \$46 million, \$44 million in 2019, and \$25 million in 2020 for a total of \$115 million. He remarked that the Unemployment Insurance (UI) tax bill was now at 1.34 percent. **Mr. Edmunds** said the fund balances under existing and proposed law was projected from 2000 to 2016 with a 1.5 risk multiplier and through 2020 with a 1.3 risk multiplier cap.

Senator Burgoyne asked what the multiplier was prior to the Legislature being presented with the change that occurred before the Great Recession, and what would the multiplier be today. **Mr. Edmunds** stated there were several different methods of calculations used prior to the Great Recession. He stated the risk multiplier was in the 1.2 range, which would have been safer. Prior to the Great Recession the formula went from a fixed rate with no calculation to various formulas. The current formula works very well and has gone up to 1.5, but the IDOL is asking for a 1.3 risk multiplier.

Senator Burgoyne asked if the IDOL had used 1.3 as the risk multiplier in 2008 to 2009, would the IDOL have been able to get through the Great Recession without being \$200 million in the red. **Mr. Edmunds** said yes. **Senator Burgoyne** asked if the IDOL had some money in the fund, would Mr. Edmunds know where the IDOL would be in terms of the Great Recession using 1.3 as a risk multiplier, what the balance would have looked like. **Mr.**

Edmunds replied the number would have been slightly positive. The IDOL would not have had to use the State reserve at that time, which would have been \$150 million. The State is the backup to the IDOL reserve. The federal reserve would have been minimal, but there would have been a State reserve.

Vice Chairman Guthrie stated this is a tax relief bill, so when rates are raised, is it characterized as a tax hike. **Mr. Edmunds** said yes, it would be considered a tax hike, but the IDOL is trying to create a tax decrease.

Senator Burgoyne commented he was an appeals examiner at the Department of Employment a few years ago. The tax rate is in code and the tax rate floats based on the health of the fund and the tax rate also floats based on the particular experience of the employer. When the taxes go up that is considered a tax increase. **Senator Burgoyne** said he agreed with Mr. Edmunds.

Mr. Edmunds outlined the Workforce Development Training Fund (WDTF), which was established in 1996 under the Workforce Development Council. Funding was 3 percent of unemployment tax collections. **Mr. Edmunds** said driving the rate down, the IDOL is being penalized as a department because there is no money for training. The IDOL has substantially expanded their search for potential candidates. By requesting another 30 percent reduction in the tax rate, the IDOL will reduce the WDTF by another 30 percent. The IDOL peaked out at \$10 million a year in training funds, which were used extensively for cities and new companies coming to the State. Now the IDOL is focused on work force training. Moving forward, the IDOL will have slightly in excess of \$3 million for total training over a three-year period, which has created a real challenge. The WDTF provides short-term training programs for immediate employer needs. The WDTF helps with start-up programs and builds talent pipelines. The primary programs are direct employer training, industry sector grants, and rural micro grants.

Mr. Edmunds stated the Governor wanted the WDTF to help the IDOL meet a crisis when there was no money. The 17-member WDTF was formed and charged with studying ways to improve Idaho's funding and delivery of training programs to meet growing employer demand for skilled workers. Recommendations must be delivered to the Governor by July 1. There was a one-time \$5 million transfer of funds to the WDTF to help bridge the gap for the future. The first priority will be to implement the WDTF recommendations. **Mr. Edmunds** outlined the proposed uses of the \$5 million. Some of the proposals are to expand and continue Apprenticeship Idaho, and use the money for the Industry Sector Grant and Rural Micro Grant. Targeted programs include: Choose Idaho, which is for the recruitment and retention of Idaho graduates; Workplace Excellence for soft skills training support; computer science work-based learning opportunities; and Workforce Training Centers to build capacity. Another goal is to address waiting lists for career and technical education.

Senator Souza asked what would be the difference if an individual who wanted to increase their certification, went through an apprenticeship program rather than a career and technical program. Which is better for that individual and which is better for the State in general. **Mr. Edmunds** explained the primary difference is that the career and technical programs, which are typically a one-or two-year program, require an individual to be a full-time student and work. The apprenticeship program provides a burst of education, such as a 12-week program, then the student is allowed to enter into the

workforce rapidly, earn an income, and also have a parallel education path. The apprenticeship program deals with immediate employer needs and removes a financial barrier by working. Students learn as they go.

Senator Souza asked if students in an apprenticeship program would have some sort of certification at the end of the apprenticeship. **Mr. Edmunds** said that career and technical education involvement is different than a full-time position, but career and technical education is trying to help make the apprenticeship program work. The IDOL will follow federally-registered apprenticeships. These result in transferrable skills. All of the requirements are identified by industry. The programs are set up so the person will have completed an apprenticeship program that gives them a certificate that can be taken to any business around the State. The individual works with the actual employer, but that does not restrict their ability to move to other employers when the program is completed. Hopefully, an employer will convince the individual to stay.

Senator Burgoyne remarked that people have had a very hard time making transitions from the field to the classroom and the career and technical program was a failure. Those programs had many people who could not finish and could not receive any benefit from the program. The apprenticeship approach makes more sense. It is critical in an apprenticeship program that it be very clear that the apprenticeship side meets the standards and certification requirements for apprenticeship programs. **Mr. Edmunds** commented there is no doubt that the apprenticeship program has to be industry-driven.

Mr. Edmunds said the current program has 200 apprentices under a \$1.4 million grant. The projection is to have 500 apprentices in the program. He said the apprenticeship program is a collaborative approach with education and industry and he is excited about the future.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:31 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 16, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of February 2, 2017	Senator Ward-Engelking
HONORING OF PAGE	Honoring of Page Rayanna McLean Introduction of New Page	Chairman Patrick
<u>S 1049</u>	Relating to Portable Electronic Insurance Statute	Lance Giles, Asurion Portable Electronic Insurance Company
<u>S 1055</u>	Relating to Recruitment and Retention Bonuses	Susan Buxton, Administrator, Division of Human Resources
<u>S 1074</u>	Relating to Procurement by Political Subdivisions	Senator Den Hartog
<u>S 1075</u>	Relating to Insurance Dividends and Other Distributions	John Mackey, United Heritage Financial Group

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 16, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Ward-Engelking, and Burgoyne

ABSENT/ EXCUSED: Senator Anthon

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 Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:45 p.m.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of February 2, 2017. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

HONORING OF PAGE: **Chairman Patrick** honored Page Rayanna McLean. He asked her to tell the Committee what she had learned. **Ms. McLean** said she remembered what Senator Davis told the pages, which was no university can teach you what you will learn here. She said she learned from the Senators about the type of characteristics she would like to emulate. She thanked Senator Guthrie for being her sponsor. She stated she was going on a mission when she turned 19 and hoped to attend Utah Valley College in Orem, Utah. She mentioned she may become a paralegal. She also said she was grateful for the Committee.

INTRODUCTION OF NEW PAGE: **Chairman Patrick** introduced the new page, Ethan Oleson, and asked him to tell the Committee a little about himself. **Mr. Oleson** told the Committee he was a Senior at Eagle High School and hoped to learn about the process. He said he was excited to be here.

S 1049 **Relating to Portable Electronic Insurance Statute.** **Lance Giles**, representing Asurion Portable Electronic Insurance Company, said the proposed legislation amends the Idaho Portable Electronic Insurance statute, which was enacted in 2012. All states now have identical or similar statutes in place. **Mr. Giles** stated the relevant portion of the existing statute to be amended provides that a person who purchases a portable electronic insurance policy consents to receiving notices and correspondence electronically if the person provides an electronic e-mail address at the time of sale and simultaneously receives notice of such consent from the insurance company. He said the proposed legislation provides that notice of consent by the consumer shall be made, either by mail or electronic means, within 30 days of the transaction rather than simultaneously. **Mr. Giles** explained that customer and vendor experience throughout the country from 2012 to date shows that providing simultaneous notice is generally not possible given the nature of the transaction. Accordingly, the result of enacting this legislation will allow easier access to electronic communication between a consumer and a portable electronics insurer.

Mr. Giles stated there would be no fiscal impact because the proposed legislation would not require any new regulatory responsibilities or actions by the Department of Insurance.

MOTION: **Senator Guthrie** moved that **S 1049** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1055 **Relating to Recruitment and Retention Bonuses.** **Susan Buxton**, Administrator, Division of Human Resources (DHR), said the purpose of this legislation was to clarify ambiguity in Idaho Code § 67-5309D(3) for the implementation, authorization, and enforcement of the issuance of recruitment and retention bonuses. During February 2016, due to ambiguity in the code authorizing recruitment and retention bonuses, the use of recruitment and retention bonuses was suspended. There were questions regarding the implementation and authorization of those bonuses.

Ms. Buxton said the pending legislation would allow recruitment and retention bonuses to continue to be utilized within existing agency budgets. Enforcement collection of recruitment and retention bonuses will be conducted by the agencies and the DHR using current resources.

Ms. Buxton explained this amendment has been requested in order to reduce ambiguity and improve utilization of bonuses as a tool for agencies to recruit and retain State employees. This section allows, after at least six months of achieving performance standards, a department director to award a bonus. The new language in the bill, Subsection 3, lines 37-41, addresses the means to enforce the terms of the award of the bonus in the event the employee leaves State service prior to the completion of the recruitment or retention timeframe. The department director and the DHR may seek repayment of the bonus from accrued vacation funds or utilize other lawful remedies. This bill provides the agency director and DHR the authority and flexibility to recoup bonuses.

DISCUSSION: **Senator Ward-Engelking** asked if the recruitment and retention bonuses were outside of a merit raise. She asked if the bonus had to be paid back if the individual left prior to completing one year. **Ms. Buxton** said these bonuses were outside of a merit raise and the money did not have to be paid back.

MOTION: **Senator Lakey** moved that **S 1055** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

S 1074 **Relating to Procurement by Political Subdivisions.** **Senator Den Hartog** said this bill modifies and updates the procurement statutes related to political subdivisions. Modifications include changes to dollar threshold amounts for both informal and formal bid processes, a change in the delegation of procurement authority for County Commissioners, and exemption and bonding changes related to some types of public works projects.

Senator Den Hartog explained there is no impact to the General Fund. It is anticipated that the changes will not have a direct financial impact on political subdivisions, but will provide for a more streamlined and efficient procurement process. **Senator Den Hartog** requested this bill be sent to the 14th Order for a minor change. **Senator Den Hartog** asked Keith Watts and Bob Perkins to present more information about the bill to the Committee.

Keith Watts, past president of the Idaho Public Purchasing Association (IPPA) and the current Purchasing Manager for the City of Meridian, gave a brief overview. He said political subdivisions in Idaho have experienced some challenges with the current procurement statutes. In an effort to resolve these challenges, several cities, counties, taxing districts, and membership organizations have provided input for these changes. The State Interim Procurement Committee heard these proposed changes during testimony over the summer and fall and has provided additional input and guidance. **Mr. Watts** remarked that this bill seeks to provide delegated authority to counties, modernize current dollar thresholds and exclusions, and add a much needed Request for Proposal (RFP) process for political subdivisions.

Mr. Watts reported the focus of the bill was on three procurement areas: 1.) the delegation of authority, which allows the county commissioners to delegate procurement authority should they so desire; and cities and taxing districts have authority to delegate; 2.) modifications to political subdivision service and property procurement statutes with a dollar threshold exclusion of \$50,000 establishes an informal bid ranges from \$50,000 to \$100,000, and a formal bid ranges from \$100,000 and above, and the inclusion of a designee to open, award, or reject bids; and 3.) modifications to the public works exemptions raises the dollar threshold to \$50,000 for public works projects and establishes a \$50,000 bright line standard for exclusion, bidding, and bonding. **Mr. Watts** explained the bill changes the ranges for an informal bid from \$50,000 to \$200,000; a formal bid is considered \$200,000 and above; and, the inclusion of a designee to open, award, or reject bids was added.

Mr. Watts summarized the changes in the bill. He stated that currently the law does not allow county commissioners to delegate procurement authority. This change would allow county commissioners to delegate purchasing authority through a motion or a resolution. **Mr. Watts** said political subdivisions exclusions raises the dollar threshold to \$50,000 to coincide with the public works exemption threshold. The bill clarifies that bonds are due at the time of contract execution.

Mr. Watts said the exclusions were added for purchases of goods and services less than \$50,000; procurement of used personal property; and, procurement of goods for direct resale. He explained the changes applied when a political subdivision sells directly to the public, such as golf balls and clubs, at a city golf course.

Bob Perkins, past president of IPPA and Procurement Manager for Ada County, continued the presentation and said the focus was on three areas, with one of those areas delegating authority for counties. County commissioners currently do not have the ability to delegate purchasing authority to anyone in the county. A purchasing manager has no purchasing ability. Delegation of authority is needed for staff members and officials.

Mr. Perkins said the procurement of travel and training is impractical to the bid process as there are specific requirements, arrangements, logistics, and expertise required. The State of Idaho can procure directly from Idaho Correctional Industries without going through a competitive process. Political subdivisions can benefit from the same exemption. Procurement of the repair for heavy equipment, software maintenance, support, and licenses of an existing system or platform bid in compliance with State law, procurement of public utilities, food for jails and detention facilities, and used equipment at an auction, if authorized by the governing board, are all on the political subdivision exclusion list.

Mr. Perkins outlined the changes for procurement of public works construction, noting Section 1 was deleted due to raising the exemption threshold in Idaho

Code § 54-1903 to \$50,000, the informal bid threshold of \$50,000 to \$200,000, the formal bid threshold of \$200,000 and above, and the inclusion of a designee to open, award, and reject bids. In Idaho Code § 67-2806 the changes to political subdivision services or personal changes were raised. The informal bid threshold was increased from \$50,000 to \$100,000, and the formal bid threshold was raised to \$100,000 and above, and the inclusion of a designee to open, award, and reject bids was added.

Mr. Perkins reported on Idaho Code § 54-1926 relating to performance and payment bonds required of contractors for public buildings and public works of the State, political subdivisions and other public instrumentalities. Before any contract equal to or greater than \$50,000 for the construction, alteration, or repair of any public building or public work or improvement of the State of Idaho, or any county, city, town, municipal corporation, township, school district public educational institution, or other political subdivision, public authority, or public instrumentality, or of any officer, board, commission, institution, or agency is executed, the person to whom such contract was awarded will furnish a performance and payment bond. Bonding should be done at contract signing. **Mr. Perkins** explained the contractor would receive an award letter and take the letter to the surety company. Without the award letter it is very difficult for contractors to be bonded.

Mr. Perkins explained that in Idaho Code § 67-2803, the procurement requirements established would not be applicable to the acquisition of personal property when the procurement duplicates the price and substance of a contract for like goods or services that have been competitively bid by the State, one of the political subdivisions, or an agency of the federal government; or contracts or purchase expenditures that are less than \$50,000, provided these contracts or purchases be guided by the best interests of the political subdivision procuring the goods and services as determined by the governing board. He outlined the remainder of the exclusions in Section 4.

DISCUSSION: **Senator Martin** asked about reverse auctions in the bill. **Mr. Perkins** said that reverse auctions were not being pursued.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to continue the meeting.

DISCUSSION: **Vice Chairman Guthrie** asked about the bid threshold of \$50,000 and wanted to know if any bidding requirements and laws were being violated. **Mr. Perkins** said the proposed \$50,000 to \$200,000 was part of the informal bid process and \$200,000 or above would be part of the formal bid process. Goods and services from \$50,000 to \$100,000 would be considered an informal bid process. The thresholds all increase according to the new baseline of \$50,000.

Senator Martin referred to the purchase of used equipment at an auction. He asked if there were safeguards in place. **Mr. Perkins** said in order to save money, political subdivisions wanted to have the ability to attend auctions to purchase equipment.

Mr. Watts commented that when a political subdivision contemplated an expenditure to procure public works construction valued at or in excess of \$50,000, but not to exceed \$200,000, the procurement procedures of Idaho Code § 67-2805, Subsection 5 will apply. The designee could open or reject bids. In Idaho Code § 67-2806 relating to subdivision purchases of personal property, the baseline has moved from \$25,000 to \$50,000 and the new threshold would be \$50,000 to \$100,000 which is the same three-bid requirement for informal bids and formal bids. **Mr. Watts** cited there was a new Section added to Idaho Code § 67-2806A, RFP. This section establishes the RFP process for political subdivisions. The State of

Idaho has this solicitation method to use in procurements. Political subdivisions would benefit greatly from having the same.

MOTION: **Senator Martin** moved that **S 1074** be referred to the 14th Order for amendment. **Senator Ward-Engelking** seconded the motion. **Senator Martin** commended Senator Den Hartog, Mr. Watts, and Mr. Perkins for all of the work they put into this bill. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Guthrie passed the gavel to Chairman Patrick.

S 1075 **Relating to Insurance Dividends and Other Distributions.** **John Mackey**, United Heritage Financial Group, said this legislation is intended to clarify the term "realized capital gains" as used in the calculation under Idaho Code § 41-3812(1)(b) in determining whether a dividend or distribution is extraordinary or non-extraordinary. The required notice and approval requirements of the Director of the Department of Insurance (DOI) depending on that determination vary. While the current statute is silent as to how capital losses are factored into the calculation, the language in Idaho Code § 41-3812(1)(b) has been interpreted by the DOI to mean net realized capital gains or losses. Insurance companies strategically manage their investment portfolios on a net basis as a sound business practice. This legislation will clarify the language to ensure that the calculation appropriately takes into account realized capital gains or losses and uses the net amount in the calculation to determine whether a dividend or distribution is extraordinary or non-extraordinary. **Mr. Mackey** said there was no opposition to this proposed legislation and the DOI supported the amendments.

Mr. Mackey explained there is no fiscal impact to the General Fund or any other State fund or expenditure. This legislation merely clarifies the calculation of a formula which has no fiscal impact.

Mr. Mackey explained a determination is based on a lesser of two measures, one of which is 10 percent of surplus. There is no issue with the surplus measure. The other is net gain from operations which is the net gain from operations or net income measures that require clarification. Insurance companies strategically manage their investment portfolios on a net basis as a sound business practice.

Mr. Mackey stated that while the current statute is silent as to how capital losses are factored into the calculation, the language in Idaho Code § 41-3812(1)(b) has been interpreted by the DOI to mean net realized capital gains or losses. The statute does not specifically include the term "net" and does not reference losses. **Mr. Mackey** noted this housekeeping measure involves adding the words "net" and "or losses."

MOTION: **Senator Lakey** moved that **S 1075** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:22 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 21, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of February 7, 2017	Senator Burgoyne
APPROVAL:	Minutes of February 9, 2017	Senator Guthrie
<u>S 1046</u>	Health Savings Accounts	Senator Thayn
<u>S 1057</u>	Relating to Employee Compensation - Annual Survey	Senator Guthrie
<u>S 1061</u>	Relating to Personnel - Elected Officials Not Eligible for Overtime	Susan Buxton, Administrator, Division of Human Resources
<u>S 1077</u>	Relating to Insurance - Motor Vehicle Service Contracts	Lance Giles, Motor Vehicle Protection Products Association
<u>RS25299</u>	Unanimous Consent Relating to Building Safety, Rejected Rule	Chairman Patrick
<u>S 1039</u>	Employment Security Law	Georgia Smith, Deputy Director, Department of Labor, Communication and Research

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 21, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 7, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of February 9, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1061 **Relating to Personnel - Elected Officials Not Eligible for Overtime.** **Susan Buxton**, Administrator, Division of Human Resources (DHR), said Idaho Code § 67-5303 provides for the application of the State personnel system on certain employees. Idaho Code § 67-5303(j) defines those positions which are part of the public educational system and are non-classified employees. The current language in this section includes a definition of officers and professional staff, including pay grade and Hay Points which do not accurately align with Idaho's current pay grades. The proposed legislation would update this section to align with Idaho's current pay grades. Idaho Code §§ 59-1607(3) and 67-5328(3)(a) are amended to remove reference to § 67-5303(j) as those employees are not currently covered by the overtime rules of the Fair Labor Standards Act (FLSA) 29 United States Code (USC) Part 526 nor under the new FLSA overtime rule effective on December 1, 2016. **Ms. Buxton** said there is no fiscal impact to the General Fund because updating the language in Idaho Code § 67-5303(j) and removing the reference to § 67-5303(j) in §§ 59-1607(3) and § 67-5328(3)(a) does not create any new funding requirement.

DISCUSSION: **Senator Martin** asked why this issue was not being handled by the Change in Employee Compensation Committee (CECC). **Ms. Buxton** said the statute changed since the CECC met. **Senator Martin** and **Ms. Buxton** had a conversation about the difference between classified and non-classified employees. **Ms. Buxton** explained the bill only had to do with the State Board of Education and State agencies. **Ms. Buxton** said the University of Idaho, Boise State University, Lewis-Clark State College, Idaho State University and Eastern Idaho Technical College, the professional staff of the Idaho Department of Education and the State Board of Education, the professional staffs of the Idaho Division of Career Technical Education and Vocational Rehabilitation, and the professional staff of Idaho Public Television, all of which are governed by the Idaho State Board of Education were all included and applied to State employees. **Ms. Buxton** noted that when any of these positions become vacant, these positions will be reviewed and designated as either classified or non-classified.

Senator Souza referred to non-classified employees and asked if teachers were

considered State employees. **Ms. Buxton** explained that school districts are all independent and not considered employees of the State.

Blake Youde, State Board of Education, said the Board of Education worked with the DHR. He said movement of the dividing line between classified and non-classified would eliminate some of the confusion at some of the institutions. **Chairman Patrick** asked how many employees would be affected. **Mr. Youde** stated some employees may be classified or non-classified, depending on the position.

Senator Martin asked if there was some adverse effect on an employee by changing the classifications. **Mr. Youde** said that employees who fall under the grandfather clause have a one-time option. For those who take the option and would become classified, accrue vacation time at a slower rate, but can accumulate more than a non-classified employee.

MOTION: **Senator Thayn** moved that **S 1061** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1046 **Health Savings Accounts (HSA's)**. **Senator Thayn** stated HSA's were for State employees. He said the State would deposit a minimum of \$500 into an employee's HSA, which would be budget-positive. There would be a one-time fiscal impact of \$68,000 to change the payroll system in the Controller's Office. He said the overall goal was to increase access, reduce costs, and promote outcomes.

Senator Thayn explained how an HSA works. Employees may choose to adopt this plan and this will be another option for State employees. HSA's would be managed by a third party vendor. He said the State and the individual would save money in the long run with a \$4,000 deductible. The benefit allows people to pay their co-pays and deductibles. **Senator Thayn** said there are still many questions the interim committee has to answer, such as how much to place into an employee's HSA. Currently, employees are not eligible to access an HSA currently due to the law.

DISCUSSION: **Senator Martin** asked if employees can opt in and out and at what frequency. **Senator Thayn** said opting in or out of an insurance program is determined on a yearly basis. **Jennifer Pike**, Administrator, Office of Group Insurance (OGI), reported employees can opt in or out on a yearly basis. This rule is governed by the Internal Revenue Service. **Senator Martin** and **Ms. Pike** discussed opting in and out of an insurance program. **Ms. Pike** said the OGI took no position on this proposed change.

Senator Souza remarked \$500 was the minimum amount the State could put into an HSA. She asked how much could the State put into an employee's HSA and still be revenue-neutral. **Ms. Pike** referred to the Milliman Study and said according to the study approximately \$2,000 would be the amount that could be deposited into an HSA by the State.

Senator Lakey asked what was the difference from what is currently in place. **Senator Thayn** stated that currently the State plan does not qualify for an HSA.

Vice Chairman Guthrie asked what happened to money deposited into an HSA if it was not used. **Senator Thayn** said the employee could keep the money and compared it to a 401(k).

Senator Ward-Engelking asked if there was money to fund HSA's. She remarked that savings are generated by how many employees choose to use an HSA. **Ms. Pike** said that additional personnel would not be hired to institute a HSA, but rather the HSA's would be handled by a third party.

Senator Lakey asked if any employees were creating a HSA. **Senator Thayn** explained that the State does not have a qualifying plan. He remarked that \$500 is way below cost-neutral. He said the interim committee could answer that question. **Senator Thayn** said HSA's are a tool.

Senator Souza said she liked the idea. She believed in this practice since wellness is promoted instead of illness. **Senator Thayn** remarked that \$500 deposited into an employee's HSA is not enough, but the State could then move to the next step.

Vice Chairman Guthrie stated \$500 is one aspect that goes into the pocket of the employee. He asked how much savings was being utilized. **Senator Thayn** remarked if premiums go down, the product would be more attractive to employees.

Senator Ward-Engelking stated she was concerned that this legislation was out in front of the work group studying insurance and asked if Senator Thayn had been in contact with the group. **Senator Thayn** said he talked to the work group about his proposal, which was a challenge last year. He asked the Committee state some reasons why an HSA should not be instituted.

Chairman Patrick said the proposed HSA was a tool for an interim committee. **Senator Thayn** stated that employees could choose either a Voluntary Employee Benefit Association plan (VEBA) or an HSA, whatever is best for them.

MOTION: **Senator Souza** moved that **S 1046** be sent to the floor of the Senate with a **do pass** recommendation. **Vice Chairman Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1057 **Relating to Employee Compensation - Annual Survey.** **Vice Chairman Guthrie** said the intent of this legislation is to remove language that could be construed as proprietary and specific to one particular vendor. The proposed legislation will also require any salary and benefit study to show as part of market comparisons data specific to Idaho public and private sector employers. **Vice Chairman Guthrie** noted that these surveys are already being done on an annual basis and Idaho data is already being collected. The cost to reflect this data separately in a report will be minimal at most.

DISCUSSION: **Senator Ward-Engelking** asked for clarification on some of the State surveys done by the Hay Group. She referred to outlying areas and other states and asked Vice Chairman Guthrie to comment. **Vice Chairman Guthrie** stated that surveys are established in different areas. He remarked the data he is asking for is meant to complement Idaho and compare to out-of-state jobs. Idaho can lose individuals to jobs out-of-state and there is value in comparing Idaho to states outside of its borders. He stated he wanted the data to be broken out. **Senator Ward-Engelking** said the goal would be to do what regional partners are doing and also to examine what is going on in the State. **Vice Chairman Guthrie** said the data has already been gathered, but has not been separated out of the report.

Senator Lakey commented that there is competition outside of Idaho and he did not have a problem with examining the data both inside and outside of the State. **Vice Chairman Guthrie** said he thought there would be a real value to having the data broken out. **Senator Lakey** asked Ms. Buxton about the Hay profile and said he thought this was a company that did market studies. **Ms. Buxton** explained the Hay methodology had been established over many years. The only concern is job evaluation. A concern expressed from one agency was the benchmark job classification. **Ms. Buxton** explained how the comparison would be apples-to-apples and jobs-to-jobs by objectively making comparisons. The survey does include Idaho jobs and classifications.

Senator Lakey referred to the generic description on page 1 of the bill and asked that if the Hay profile method was eliminated, could that methodology still be used. **Ms. Buxton** remarked that there is an understanding of what the Hay methodology entails. **Senator Lakey** commented that it appeared the Hay profile may fit within the description, but asked how would that be controlled. **Ms. Buxton** said she did not see any change and that the methodology is something that works.

Vice Chairman Guthrie commented the Hay methodology did not necessarily have to be used, but he did not foresee any changes. He agreed that all components should be examined, but that Idaho should also be a separate component and a piece of the greater survey. He suggested both surveys could be done.

MOTION: **Senator Martin** moved that **S 1057** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

S 1077 **Relating to Insurance - Motor Vehicle Service Contracts.** **Lance Giles**, representing Asurion Portable Electronic Insurance Company, said the proposed legislation amends the Idaho portable electronic insurance statute, which was enacted in 2012. All states now have identical or similar statutes in place. **Mr. Giles** stated the relevant portion of the existing statute to be amended provides that a person who purchases a portable electronic insurance policy consents to receiving notices and correspondence electronically if the person provides an electronic e-mail address at the time of sale and simultaneously receives notice of such consent from the insurance company. He said the proposed legislation provides that notice of consent by the consumer shall be made, either by mail or electronic means, within 30 days of the transaction rather than simultaneously. **Mr. Giles** explained that customer and vendor experience throughout the country from 2012 to date shows that providing simultaneous notice is generally not possible given the nature of the transaction. Accordingly, the result of enacting this legislation will allow easier access to electronic communication between a consumer and a portable electronics insurer. **Mr. Giles** stated there would be no fiscal impact because the proposed legislation would not require any new regulatory responsibilities or actions by the Department of Insurance.

In addition, **Mr. Giles** pointed out there was a section on page 2, Section 2 of the printed bill, line 23, following "penses" that had been inadvertently left out. The bill should be amended to read, "An agreement whereby an employer, or a third party contracted by the employer, provides mileage reimbursement and incidental maintenance and repairs to its employees for personal vehicles used for business purposes shall not be considered a motor vehicle service contract or a contract of insurance."

MOTION: **Senator Martin** asked that **S 1077** be referred to the 14th Order for amendment. **Senator Ward-Engelking** seconded the motion.

Vice Chairman Guthrie expressed his concerns about this bill. He said that this legislation will lengthen the car-buying process. He said he could not support this bill. **Senator Burgoyne** commented he had concerns, but they were addressed. He remarked customers need to be aware of the value of these types of contracts. The motion carried by **voice vote**. **Vice Chairman Guthrie** asked to be recorded as voting nay.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

RS 25299

Unanimous Consent Relating to Building Safety, Rejected Rule. Chairman Patrick noted this Routing Slip (RS) rejects a certain rule of the Division of Building Safety, **Docket No. 07-0501-1601**, relating to rules of the Public Works Contractors License Board. There is no fiscal impact because the rule does not go into effect. **Chairman Patrick** asked for unanimous consent to send this RS to a privileged committee for a print hearing. There were no objections.

PASSED THE GAVEL:

Vice Chairman Guthrie passed the gavel to Chairman Patrick.

S 1039

Employment Security Law. Georgia Smith, Deputy Director, Department of Labor (DOL), Communication and Research, stated that by changing the status of Career Information System (CIS) positions from exempt (non-classified) to classified involves no major changes in compensation, vacation, sick leave accrual or benefits. Based on the statutes already in place and followed by the DOL, the four positions are earning a salary equivalent to an appropriate department classified pay grade, which is a pay grade "L" as shown in the current Fiscal Year (FY) 2017 compensation schedule as maintained by the Division of Human Resources. This change will increase the DOL's ability to employ and recruit top tier candidates. With Idaho's low unemployment rate and tight labor market, recruiting new employees to an exempt position is a challenge. The proposed change will allow the DOL to maximize the use of its total Full-Time Equivalent (FTE) count by increasing its ability to redeploy personnel where and when necessary, increase retention, and reduce training costs for staff through access to promotional opportunities within the DOL.

Ms. Smith commented that except for the administrator's position which will remain exempt, all CIS staff will be required to reapply for the newly classified positions.

Ms. Smith reported that delivery of career information is also integrated into the DOL's services it provides to unemployment insurance claimants, job seekers and youth, and is a key component of any application for intensive job search services. CIS also plays an essential role for those participating in services provided by the Workforce Innovation and Opportunity Act (WIOA). Oftentimes, CIS activities are a first step for youth and adults entering into a WIOA program. **Ms. Smith** pointed out these positions are also critical for meeting the requirements the DOL agreed to when it received a \$274,275 Corporation for National Community Service Grant. These funds are being used to pay for 11 Idaho AmeriCorps members who are working as college and career coaches at Jerome Middle School, Jerome High School, Burley High School, Weiser Middle School, Black Canyon Alternative High School, Lakeside Junior-Senior High School, Caldwell High School, Canyon Springs High School, Cassia Alternative High School, Raft River Junior-Senior High School (recruiting), and Burley Junior High School (recruiting). All of these schools are rural, low-income schools. **Ms. Smith** noted staff are also overseeing work currently being performed by three Volunteers in Service to America (VISTA) members who are assigned to the DOL. Each of the three VISTA members are working with local schools, school districts, workforce providers, and community stakeholders in Northern, Southeastern, and Southwestern Idaho to develop locally-driven strategic plans for carrying out career planning activities.

Ms. Smith gave a brief background of Idaho's CIS. She said the CIS was established 36 years ago in 1980 and the only comprehensive source of career information specific to Idaho and the nation. Throughout the years, delivery of the information housed within this system has evolved from punch cards in the needle sort deck to a robust online service delivery system. Management staff and program administration was originally part of the Idaho Division of Professional Technical Education (IDPTE). **Ms. Smith** explained that in 2008, Idaho Code § 72-1345A was amended and the network, employees, and funding responsibility for

staffing, populating, and maintaining Idaho's CIS were transferred from the IDPTE to the DOL. As outlined in the amended code, Idaho's Workforce Development Council (IWDC) was listed as the designated advisory body and the positions to be transferred were listed as exempt. **Ms. Smith** remarked that today there are six employees, including one administrator, three training and marketing specialists, a senior research analyst, and a technical records specialist. These employees introduce the system to and help Idaho schools meet the terms and conditions of S 1290 (2016) and requires and funds career planning in the schools and school districts throughout the State.

Ms. Smith related that the Idaho Workforce Development Council, consisting of representation from the Office of the State Board of Education, the DOL, the Division of Vocational Rehabilitation, the Department of Education, and the Workforce Development Council, serves as the system advisory board. Through the creative use and delivery of information on occupations, wages, and career paths, this system has helped students and adults learn more about career opportunities, education, and training programs at Idaho colleges and universities and reach their career goals.

DISCUSSION: **Vice Chairman Guthrie** remarked that by reclassifying individuals, the DOL was trying to weed out those who are not working up to capacity. **Ms. Smith** said that the goal was to make positions more attractive and to encourage employees to stay. She said that under the current non-classified employee status, an employee cannot apply for promotions within the agency.

Senator Burgoyne asked if reclassifying employees was a choice of the DOL. There is a legal requirement that reclassified employees would have to reapply for their positions. **Ms. Smith** commented that others would have the opportunity to apply for those positions as well. **Senator Burgoyne** asked how many people report to the administrator. **Ms. Smith** said there were five people who reported to the administrator and that the administrator was a working administrator who performed technical duties.

Senator Martin asked how the individuals felt about the change in classification. **Ms. Smith** said all were spoken to and were enthusiastic about the job reclassification.

Sara Scudder, CIS Administrator, DOL, said she had individual discussions with each employee and all were supportive of the reclassification because of the opportunity for promotion.

Senator Burgoyne remarked he found it interesting to subject those who are performing well to a competitive process. **Ms. Smith** commented that reapplication is a requirement of the process of reclassification. **Senator Ward-Engelking** and **Ms. Smith** had a conversation about employees being grandfathered in and the legal requirement to open jobs back up. **Vice Chairman Guthrie** said that the classified positions will be open to anyone and he expressed concern.

MOTION: **Senator Martin** moved that **S 1039** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Souza** seconded the motion.

ROLL CALL VOTE: **Senators Martin, Souza, Anthon,** and **Chairman Patrick** voted aye. **Vice Chairman Guthrie, Senators Thayn, Ward-Engelking,** and **Burgoyne** voted nay. The motion failed.

MOTION: **Senator Thayn** requested that **S 1039** be referred to the 14th Order for amendment. **Senator Burgoyne** seconded the motion.

**ROLL CALL
VOTE:**

Vice Chairman Guthrie, Senators Thayn, Ward-Engelking, Burgoyne, and Chairman Patrick voted aye. **Senators Martin, Souza, and Anthon** voted nay.
The motion carried.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:02 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 23, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of February 14, 2017	Senator Martin
APPROVAL	Minutes of February 16, 2017	Senator Lakey
<u>RS25350</u>	Relating to Surplus of Self-Funded Insurance Plans	Senator Thayn
<u>S 1045</u>	Idaho Global Entrepreneurial Mission (IGEM)	Megan Ronk, Director, Department of Commerce
<u>S 1058</u>	Relating to Telehealth Access	Senator Keough
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of Senator Todd Lakey to the State Insurance Fund Board	Senator Lakey

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
email: scom@senate.idaho.gov

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 23, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Martin** moved to approve the Minutes of February 14, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Lakey moved to approve the Minutes of February 16, 2017. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 25350 **Relating to Surplus of Self-funded Insurance Plans.** **Senator Thayn** provided background information and the rationale for this proposed legislation, the purpose of which is to make it easier to create self-funded health insurance plans. The proposed legislation adds to the current law giving authority to the Director of Insurance to extend a self-funded plan by up to 12 months to meet the minimum surplus requirements. All other requirements must be met.

MOTION: **Senator Thayn** asked for unanimous consent to send **RS 25350** to a privileged committee for printing. **Chairman Patrick** asked if there was opposition to the unanimous consent request. There were no objections.

S 1045 **Idaho Global Entrepreneurial Mission (IGEM).** **Megan Ronk**, Director, Idaho Department of Commerce (IDOC), reviewed the history of IGEM, a program created to support commercialization partnerships between Idaho's three research universities and private sector companies. Through the IGEM grant program, the IGEM Council (Council) invests in the development of new business and supports Idaho's research facilities, creating new products, companies, and high-value jobs while increasing the research capacity of Idaho's universities.

Ms. Ronk said the bill proposes a needed change in statute to provide authority to the Council to establish subcommittees, one of which is already operating, to provide strategic direction to the Council, to research policy issues, and to advise on funding decisions. Subcommittee members are drawn from the public, and this statutory change will ensure that subcommittee members are operating under the nature of State government when dealing with confidential information or any attorney/client privilege issues.

MOTION: **Senator Burgoyne** moved to send **S 1045** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Relating to Telehealth Access. Senator Keough, disclosed a possible conflict of interest under Senate Rule 39(h). When not in legislative session, she works for the Associated Logging Contractors, a workmans' compensation insurance company and the Associated Logger's Exchange. She serves on the Associated Logging Contractor's Board as secretary.

Senator Keough said the purpose of the bill is to bolster the success of Idaho's Telehealth Access Act, Idaho Code §§ 54-5701 through 54-5713. The proposed legislation would allow for costs of telehealth services to be covered in the same manner and to the same extent as if the services were delivered in person.

Additionally, the proposed legislation is to aid in implementation of Idaho's Telehealth Access Act by: improving timely access to consultations without long travel and loss of work time; decreasing health care fragmentation which improves patient experience; reducing cost for patients and payers through better management of chronic disease and better access; increasing patient access to providers that might be otherwise unavailable due to distance; and improving health quality, equity, and affordability for all Idahoans.

DISCUSSION:

The focus of the discussion centered on costs, clarity of language, transparency and mandates.

Senator Martin expressed concerns with a sentence on line 12, "...same manner and to the same extent that the cost..." and wondered if the word "amount" would be better than "cost." He also had concerns about the implications of reimbursement requirements. He wanted to know if the examination and office visit would still be \$119 or would it be less. **Senator Keough** said that should this bill pass, insurance companies should negotiate with health care providers to arrive at a rate that means similar services would be reimbursed similarly whether the services are delivered in person or via telehealth.

Senator Burgoyne also questioned the language with respect to the word "cost" and said he felt there was a need for more specificity. He also expressed concern regarding geography as it related to costs, which could be higher or lower, depending on the location. He said the language could be read more than one way, which would be confusing. **Senator Keough** confirmed her openness to making changes or suggestions in wording to better clarify the intent of the legislation. She said the cost is relative to the same cost a health care provider has in delivery of services which is considered in establishing cost. This is the cost that the health care provider incurs, including facilities, overhead, staff, paperwork, and technical equipment. **Senator Burgoyne** wanted to know how a price could be determined in a system that seems to have over the years actively worked against individuals and is dependent on different contracts.

Senator Guthrie asked if the words, "another entity," signified a private payer and wondered if there would be a risk the cost would be higher for a patient who self-pays. **Senator Keough** did not have an answer to the question, but said there seemed like there was a disparity in price.

Senator Souza expressed concerns about the language, which she felt was too prescriptive and could limit a physician's flexibility to set their own rates. She also saw a need in the language for more transparency as to costs. **Senator Keough** explained the rationale for the legislation is a way to start a conversation about how this innovation could be used in a fair manner. She reiterated the language can be modified to provide more clarity.

Senator Thayn remarked he wanted to see the growth of telehealth. He suggested a conversation should take place about reimbursement rates categorized by self-pay, Medicaid, and insurance companies.

TESTIMONY:

Yvonne Ketchum-Ward, Chief Executive Officer (CEO), Idaho Primary Care Association, testified in support of the bill and discussed consultation costs, the difficulty of recruiting physicians in rural areas, and the benefits the legislation would provide.

Chairman Patrick asked if the intent of the bill was to tell insurance companies what to pay or the providers what to charge. **Ms. Ketchum-Ward** explained the legislation tells insurance companies to pay the provider the same amount as would be paid as if the provider saw the patient in person, which could be a range of fees, depending on the service.

Brian Whitlock, President and CEO, Idaho Hospital Association, testified in support of the bill. He said the hospitals throughout the State want to increase access to care while lowering costs, which he believes this bill accomplishes. His focus was on coverage and how the legislation would improve access to health care and help with costs. He offered to help with any language modifications.

Mr. Whitlock said the intent of the bill was to incentivize all entities involved to use technology. He said the details are complex and negotiable, and the bill is a means to move forward. He said he read the wording as more of a directive for the providers and carriers to get together and to work out the payment amounts. Patients may be willing to pay an extra co-pay amount to save hours of driving.

Neva Santos, Executive Director, Idaho Academy of Family Physicians, yielded her time to Dr. Ted Epperle.

Dr. Ted Epperle, Idaho family physician, CEO, Family Medicine Residency of Idaho, President of the Idaho Rural Health Association, and Chairman of the Board of the Idaho Healthcare Coalition, testified in support of the bill. **Dr. Epperle** stated that the Idaho Healthcare Coalition oversees the \$40 million grant that Idaho has been given to transform health care in the State. He said one of the seven goals is to help rural Idaho and everyone involved connect the dots for better health care for that population. He expressed the belief that the proposed legislation is a mechanism to further refine the good work done by Idaho's Telehealth Access Act. The intent of the language is to help everyone move forward. He said he did not believe this was a mandate or that a certain rate would be enforced. Telehealth is of value and that for an appropriate service that is provided, it should not matter under a plan whether or not it is provided in person or via telehealth. **Dr. Epperle** said that if providers and payers could be directed to come together for ease of use and transparency of how best to use telehealth in the State, countless numbers of lives would be helped and better health would happen at a lower cost.

Senator Thayn stated that if telehealth is a benefit, why should there be requirements. **Dr. Epperle** commented the purpose of telehealth is to ease people into the idea. There are many issues involved. **Dr. Epperle** said the bill should not be a mandate but an incentive to bring all participating entities together to resolve issues, making them as simple as possible to ensure everyone understands clearly and all are working on the same page.

Woody Richards, representing the American Family Insurance Company, Associated Loggers Exchange, and the Workers' Compensation Exchange, said he had no comment on the bill itself; however, he asked that the portion of the bill referring to workers' compensation be excluded from the existing legislation until such time as the Industrial Commission (Commission) could study the details. **Mr. Richards** said the Commission supports the continued study of continuing to work with the sponsor to find answers.

Chairman Patrick disclosed for the record that he is on the Industrial Commission Advisory Board, but did not feel that was a conflict.

Senator Lakey disclosed for the record that he is on the State Insurance Fund Board.

Stephen Thomas, representing the Idaho Health Plan Association (IHPA), testified in opposition to the bill. He said IHPA did not oppose telehealth itself, but did oppose the proposed legislation, which defines terms and specifies how a doctor/patient relation may be created remotely. IHPA read the bill as both a price and coverage mandate, thereby lessening market competition.

Chairman Patrick said that time constraints made it necessary to continue further testimony on **S 1058** until the next meeting on February 28 and invited Senator Keough and those still wishing to testify on the bill to return at that time.

GUBERNATORIAL APPOINTMENT: **Chairman Patrick** said the Gubernatorial Appointment of Senator Todd Lakey to the State Insurance Fund Board will be continued to the next Committee meeting of February 28, 2017.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:00 p.m.

Senator Patrick
Chair

Jeanne' Clayton, Assistant
Secretary

Linda Kambeitz, Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 28, 2017

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1058</u>	Relating to Telehealth Access (continuation)	Senator Keough
Gubernatorial Appointment Vote	Vote on the Gubernatorial Appointment of Senator Todd Lakey to the State Insurance Fund Board	
<u>SCR 104</u>	Relating to the Department of Administration, Medical Diversion Program	Senator Thayn
<u>H 46</u>	Relating to Sign Language Interpreters	Representative Packer

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick

Vice Chairman Guthrie

Sen Martin

Sen Lakey

Sen Thayn

Sen Souza

Sen Anthon

Sen Ward-Engelking

Sen Burgoyne

COMMITTEE SECRETARY

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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 28, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayne, Souza, Ward-Engelking, and Burgoyne

**ABSENT/
EXCUSED:** Senator Anthon

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:33 p.m.

S 1058 **Relating to Telehealth Access (Continuation).** **Senator Keough** said the purpose of this bill was to expand telehealth in order to innovate health care access in Idaho, but especially in the rural areas. She said this bill was less restrictive than H 583 (2016). She said that all stakeholders were to spend the interim to find out how to make the bill better, but due to a breakdown in communication, nothing happened. **Senator Keough** said she hoped all parties could use telehealth.

TESTIMONY: **Chairman Patrick** asked for those who were unable to testify at the last meeting, to please come forward.

Toni Lawson, Idaho Hospital Association, said she was testifying on behalf of Brian Whitlock, in order to answer some questions from the last meeting. **Ms. Lawson** said that under the existing Telehealth Access Act, the definition of "telehealth services" include "clinical care, health education, home health and facilitation of self-managed care, and caregiver support." If the patient already has an established relationship with the provider, they can communicate via two-way audio communications. If the patient does not have an established relationship with the provider, the provider must take appropriate steps to establish a provider/patient relationship by use of audio and visual communications. **Ms. Lawson** said it was important to note that the applicable Idaho community standard of care must be met. Treatment recommendations provided through the telehealth services shall be held to the applicable Idaho community standard of care that applies in an in-person setting. All providers must practice within the scope of practice in the provider's license.

Ms. Lawson said that if insurance companies say they are already paying for these services, then what may or may not be happening with the Affordable Care Act is irrelevant.

Senator Souza asked for clarification on the patient/provider relationship and the requirement for two-way audio and/or visual communications. **Ms. Lawson** said the applicable Idaho community standard of care must be met. **Senator Souza** commented that one of the goals of telemedicine is to have a needy person in Idaho speak to a specialist, which is considered out-of-network in rural Idaho, since there are no specialists in small towns.

She remarked that by going out-of-network could put a deductible up to as much as \$200,000. **Ms. Lawson** said going out-of-network or not was not affected by telehealth. These same types of issues can occur in urban settings as well.

Neva Santos, Idaho Academy of Family Physicians (IAFP), testified in support of the bill. **Ms. Santos** gave a brief overview of the Statewide Healthcare Innovation Plan (SHIP). She reported that in 2010 Governor Otter created the Idaho Medical Home Collaborative, which was designed to form a multi-payer medical home pilot project which eventually ran from 2013 to 2014. The results of the pilot formulated the foundation of the SHIP Project which is now transforming healthcare in Idaho to achieve a better personal experience and improve health outcomes at a lower cost. One of the major pieces of the SHIP Project is payment reform and lower costs. This bill helps the SHIP Project achieve that goal by incorporating telehealth as a tool that physicians can use to improve health outcomes. The inability to be paid an adequate fee for telehealth, hinders physicians from using this means to better treat their patients.

Ms. Santos pointed out cooperation from payers is needed to help address costs. Parity provides equal payment for equal work and has equal expectations and responsibilities. A virtual telehealth visit is the modern equivalent of a home visit and can be particularly appropriate for patients who live a considerable distance from medical care or who are chronically debilitated by illness. Being paid the same for a visit with a patient face-to-face or through telehealth is important to expanding and developing telehealth services in Idaho.

Vice Chairman Guthrie remarked he was concerned about the costs. He said out-of-network costs will increase. **Ms. Santos** said the IAFP was in support of price parity when it came to seeing a physician whether in office or via telehealth.

Senator Burgoyne said there are too many Idaho citizens who cannot afford health care. **Ms. Santos** said that Idaho is 49th in the nation for primary care physicians. If telehealth was made more convenient for doctors, they may be able to see more patients.

MOTION:

Senator Martin moved that **S 1058** be referred to the 14th Order for amendment. The motion failed due to lack of a second.

TESTIMONY:

Molly Steckel, Policy Director, Idaho Medical Association (IMA), said the reimbursement for telehealth is not quite right or equal. Comparable and equitable language would be supported and it is appropriate to have a distinction in those costs. Physicians believe the main impediment is how they are going to get paid. The IMA would support sending this bill to the amending order.

Senator Souza questioned that if the bill was sent to the amending order, would there be enough time to make the amendments or would it be better to work on the bill for next year. **Ms. Steckel** said that she believed an amendment would require negotiated rulemaking.

Francoise Cleveland, American Association of Retired Persons (AARP) Idaho, testified in support of the bill. Securing cost coverage would support the promotion of health coverage. **Senator Martin** said this bill would not go forward until coverage and costs are settled.

Senator Burgoyne remarked he was prepared to send the bill to the amending order. He said he did not think the amendment could be done this year. All stakeholders need to proceed very carefully in the health care area. He said it is extraordinarily difficult to find out prices, and insurance contracts should not be overridden.

MOTION:

Senator Martin moved that **S 1058** be referred to the 14th Order for amendment. **Senator Burgoyne** seconded the motion.

Senator Martin said he was not supportive of the same rate of payment for telehealth as a site conference. He said the rates should be different. He said the reference to workers' compensation should be removed from the bill. He stated he was in support of amending the bill.

Senator Lakey remarked he had some conceptual discomfort with some aspects of the bill as to mandates of coverage and cost. He stated he was supportive of the motion and the effort, but was concerned about the time left before the end of the session.

The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENT
VOTE:**

Vote on the Gubernatorial Appointment of Senator Todd Lakey to the State Insurance Fund Board. **Senator Thayne** commented he knew Senator Lakey quite well and he said he was ready to make a motion.

Senator Thayne moved to send the gubernatorial appointment of Senator Todd Lakey to the State Insurance Fund Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

SCR 104

Relating to the Department of Administration (DOA) Medical Diversion Program. **Senator Thayne** stated the resolution directs the DOA to either provide a transparency tool for State employees on a State website or work with a vendor to establish a medical diversion program. A key to reducing medical costs is for consumers to have price information. **Senator Thayne** said a website transparency tool would cost approximately \$100,000. A medical diversion program would cost approximately \$1.8 million annually, which would be offset by up to a 15 percent reduction in the State employee health insurance product. The total 2018 cost is estimated to be \$241 million. A 15 percent reduction would be a savings of \$36 million.

TESTIMONY:

Eric Wright, Senior Vice President, Health Smart, Oklahoma, said variance and pricing exists throughout the country. The free market system is not utilized as often as it should. The concept of transparency is a free-market principle. There is no meaningful way to get prices from the medical community. He remarked that a seller is someone who is willing to be transparent with quality of care. **Mr. Wright** said that cost around the country costs for facilities varies. He said his company finds facilities that will work with patients at a transparent price. In Oklahoma there were 178 members who were redirected or diverted, worth \$1.7 million in savings for the client, with very little disruption. He mentioned there were over 60 facilities that wanted to enter into a contract with the State of Oklahoma. Services provided by his company were to intervene and provide options for health care. Patients are advised of their benefits where they can go to another facility where costs are cheaper.

Senator Burgoyne said that a program like this holds a lot of promise. **Mr. Wright** said his company has always worked in the best interest of the insurance company to not disclose prices. They aggregate data and come up with a composite number so as to not violate a contract.

Senator Souza remarked that Mr. Wright has established something that is unique so an individual has more control over health care. **Mr. Wright** said the next step is to launch this concept nationwide. Outpatient services are growing but costs can be cut in half. The State of Oklahoma has been a test model. **Senator Souza** asked if the database included surgical infection rates. **Mr. Wright** said quality is important and his company has adopted Medicare quality standards. There have been no incidents in this program. A provider has to meet quality standards.

MOTION:

Vice Chairman Guthrie moved to send **SCR 104** to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

H 46

Relating to Sign Language Interpreters. **Representative Packer** said this legislation creates a licensing system and licensing requirements for sign language interpreters. She said that at least 13 percent of the general population has a variety of types of hearing loss, which affects 203,785 Idaho citizens. Out that total, 2.42 percent of the population with hearing loss (34,486) experience severe to profound hearing loss. They are unable to readily understand speech due to the extent of their hearing loss, but instead rely on a visual mode of communication. These deaf people are at a distinct disadvantage with incomplete, incorrect, and unethically-delivered information, often by the hands of non-qualified interpreters. A professional and qualified interpreter is required to facilitate the communication and information, ensuring that it is fully accessible and understandable by the customers and the service providers. It is a quality control measure to ensure that deaf and hearing consumers receive appropriate interpreting services, which may reduce general threats to the health and safety of deaf people statewide. Licensing professional interpreters also minimize the liability of hiring entities in providing services to deaf consumers. It also ensures equal access to education, employment opportunities, and health care for deaf children and adults.

Representative Packer said that using sign language interpreters can profoundly affect the lives of people of the State of Idaho, it is the purpose of this bill to set standards of qualifications for those who engage in the practice of sign language interpreting and protect the public from unprofessional conduct in the practice of sign language interpreting.

Representative Packer reported there will be no impact to State or local funds. Entities that employ sign language interpreters may elect or decline to assume license fees for their employees. Sign language interpreters have several credentialing examinations available and do not need the State to administer a licensing exam. Based on an estimated 100 licensees being added to the existing Speech and Hearing Services Licensure Board (Board), the impact on the Bureau of Occupational Licenses dedicated fund would be approximately \$12,500 in additional revenue. These fees would cover the additional costs to the Board for the ongoing costs associated with licensure of sign language interpreters.

DISCUSSION: **Senator Souza** commented that in order to qualify for licensure, an interpreter must be 21 years old. **Representative Packer** pointed out that was an error that will be corrected and the age should be 18. **Senator Souza** stated that there are many people who are not licensed and who may not qualify and now they are being told they cannot call themselves a sign language interpreter. She asked why the rule was so strict. **Representative Packer** said because of the critical nature of the very serious consequences of poor interpretation when not done correctly.

TESTIMONY: **Steven Snow**, Executive Director, Deaf and Hard of Hearing, said that video-conferencing and telehealth services would be available.

April Nelson, representing herself, talked about not having a qualified interpreter and only receiving bits and pieces of information. She said this bill gives the deaf and hard of hearing equal access.

Alan Wilding, President, Idaho Association for the Deaf, commented that there is an enormous problem in Idaho not to have qualified interpreters. He cited many examples of issues caused by poor interpretation. This bill will help deaf Idahoans. **Senator Thayne** asked if there was an availability of qualified interpreters in Idaho to fill the need. **Mr. Wilding** said there was a good number of interpreters who would qualify and there would not be a shortage. There could be a brief time lapse in order for interpreters to become qualified and that is why the deadline is not until 2018.

Brian Darcy, Idaho Education Services for the Deaf and Blind, testified in support of the bill. He stated employees should be supported and have equal access.

MOTION: **Vice Chairman Guthrie** moved to send **H 46** to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

Senator Souza explained she was not convinced another State license was needed. There is a real problem with the general public understanding the need to have good sign language interpreters, which could cause havoc. She said she was not in support of this bill.

The motion carried by **voice vote**. **Senators Souza** and **Lakey** asked to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:05 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, March 02, 2017

SUBJECT	DESCRIPTION	PRESENTER
<u>H 0100</u>	Relating to Insurance Owner Risk and Insolvency Assessment	Dean Cameron, Director, Department of Insurance
<u>H 0101</u>	Relating to Insurance (Reinsurance)	Dean Cameron
<u>H 0102</u>	Relating to Insurance - Establish Provisions - Corporate Governance and Annual Disclosures	Dean Cameron
<u>S 1079</u>	Relating to Limited Lines of Travel Insurance	Sarah Bettwieser, Bill Scoggin, U.S. Travel Insurance Association
<u>S 1117</u>	Relating to Self-Funded Insurance Plans	Senator Thayn
PRESENTATION	International Chamber of Commerce	Megan Ronk, Director, Department of Commerce

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick
Vice Chairman Guthrie
Sen Martin
Sen Lakey
Sen Thayn

Sen Souza
Sen Anthon
Sen Ward-Engelking
Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 02, 2017
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne
ABSENT/ EXCUSED: Senator Lakey

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

H 0100 **Relating to Insurance Owner Risk and Insolvency Assessment. Dean Cameron**, Director, Department of Insurance (DOI), said this legislation is based on the National Association of Insurance Commissioners (NAIC) Risk Management and Own Risk Solvency Assessment (ORSA) Model Act #505, which followed the 2008 recession. The goal is to have insurance companies or insurance holding company groups identify enterprise-wide risks that are relevant and material and report those risks once a year to the DOI on a confidential basis. This ORSA model act will provide guidance and instructions to domiciled insurers for filing a confidential ORSA summary report with the director of the DOI. It is helpful to both insurance companies and their regulator to have companies perform a regular assessment of their own risks and file that summary report with the DOI. This model law will also be required for accreditation of the Idaho DOI by the NAIC. Accreditation is important to maintain for consistent, streamlined, and fair regulation of insurers.

Mr. Cameron said there is no fiscal impact to the General Fund or any other State fund or expenditure in inasmuch as the provisions of this bill can be reviewed and monitored with the DOI current and requested appropriation. Implementation of this legislation will help assure financial security of domiciled insurance companies, thus preventing utilization of the State guaranty funds and a commensurate reduction in premium taxes.

Mr. Cameron noted that there is a small company exemption for companies who do not exceed \$500 million in premium or \$1 billion premium as a group of companies. The need for confidentiality is critical to Idaho domiciled insurance companies. Currently, domiciled insurance companies undergo an examination every five years.

DISCUSSION: **Senator Burgoyne** asked if this chapter was replacing something in the law or was it new. **Mr. Cameron** said this legislation is a whole new chapter in code. **Senator Burgoyne** asked if the five-year independent evaluation would continue and would the report be certified. **Mr. Cameron** said the evaluation would continue, but the information would not be certified. However, there is a statement that is required stating that the information is true to the best of their knowledge. **Senator Burgoyne** said that if the report was not certified, were there provisions already existing in code to disincentivize those who do not report honestly. **Mr. Cameron** said there were provisions in the code and the DOI has the authority to take corrective action.

Senator Martin asked if control was being given up with the change in this bill. **Mr. Cameron** said that in order to prevent federal intervention, the NAIC has worked hard to provide a set of standards for accreditation, which is in the best interest of consumers. This bill requires passage or the DOI will lose their accreditation.

MOTION: **Senator Martin** moved that **H 0100** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 0101 **Relating to Insurance (Reinsurance).** **Dean Cameron**, Director, Department of Insurance (DOI), said this legislation is based on the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law #785. Idaho already has some provisions from this model law in existing code setting forth conditions when ceding insurers may take credit for reinsurance. The revisions will reduce collateral requirements for non-U.S. licensed reinsurers that are licensed and domiciled in qualified jurisdictions. This in turn will make reinsurance more affordable for U.S. insurers while still maintaining necessary protections. This model law will also be required for accreditation of the Idaho DOI by the NAIC. Accreditation is important to maintain for consistent, streamlined, and fair regulation of insurers.

Mr. Cameron stated there is no fiscal impact to the General Fund or any other State fund or expenditure as the implementation of this legislation will require no additional effort by the DOI other than the drafting of rules. To the same extent the State or any government entity purchases reinsurance, passage of this legislation should lead to a reduction in cost or a positive fiscal impact.

Mr. Cameron explained that non-U.S. reinsurers are evaluated based on their financial strength, claims payment history, including qualified jurisdiction. The amount of collateral required would be based on that evaluation. Lower collateral requirements would lower costs while maintaining adequate financial security.

DISCUSSION: **Senator Burgoyne** asked who decided the appropriate level of collateral. **Mr. Cameron** explained the decision is made in Idaho, but a national standard is used. There are several criteria, including the location of the company.

MOTION: **Senator Guthrie** moved that **H 0101** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 0102

Relating to Insurance - Establish Provisions - Corporate Governance and Annual Disclosures. **Dean Cameron**, Director, Department of Insurance (DOI), said this legislation is based on the National Association of Insurance Commissioners (NAIC) Corporate Governance Annual Disclosure Model Act (#305). In part following the 2008 recession, the NAIC worked towards the goal of having insurance companies or insurance holding company groups identify their corporate governance practices. This corporate governance model act will provide guidance and instructions to domiciled insurers for filing a confidential corporate governance annual disclosure with the DOI. This legislation will outline requirements for completing a confidential corporate governance annual disclosure and permit the Director to gain and maintain an understanding of domiciled insurers' corporate governance framework. This model law is expected to be required for accreditation of the Idaho DOI by the NAIC. Accreditation is important to maintain for consistent, streamlined, and fair regulation of insurers.

Mr. Cameron said there is no fiscal impact to the General Fund or any other State fund or expenditure inasmuch as the provisions of this bill can be reviewed and monitored with the DOI's current and requested appropriation. Implementation of this legislation will help assure financial security of domiciled insurance companies thus preventing utilization of the State guaranty funds and a commensurate reduction in premium taxes.

Mr. Cameron reiterated that currently domiciled insurance companies undergo an examination every five years and exam information is held confidentially. The need for confidentiality is also important for other out-of-state companies who wish to sell to Idaho consumers.

DISCUSSION:

Senator Burgoyne asked if information provided by the DOI is already in the public domain and would the information be protected. **Mr. Cameron** said that if the information is in the public domain, it is not protected. If the information is confidential, the DOI holds that in confidence. If the DOI finds something actionable, an administrative order is issued. Consequences of violations are posted on the DOI website.

MOTION:

Senator Thayn moved that **H 0102** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1079

Relating to Limited Lines of Travel Insurance. **Sarah Bettwieser**, representing U.S. Travel Insurance Association (USTIA) introduced Bill Scoggin, USTIA. **Mr. Scoggin** stated this legislation would authorize the Department of Insurance (DOI) to issue limited lines travel insurance producer licenses to qualified applicants who provide travel insurance through travel retailers. The legislation requires the licensed limited lines travel insurance producer and the travel retailer to meet administrative and disclosure requirements, such as including the producer's identification information and making certain disclosures to the consumer in the marketing materials and fulfillment packages, and requiring the producer to establish and maintain a transaction record.

Mr. Scoggin said this legislation has no fiscal impact on local government or to the General Fund. There will be a small incremental increase in cost to the DOI for issuing licenses and the general regulation of licensees. As with the regulatory cost for all DOI licensees, the cost associated with the issuance of licenses will be offset by the fees for licensure. **Mr. Scoggin** stated travel insurance includes coverage for cancelled or interrupted trips, medical and dental emergencies, lost or damaged baggage, damaged or stolen rental cars, and travel supplier bankruptcies. The need for this legislation stems from regulatory inconsistencies among the states which are driven by a number of underlying factors, reflecting both the realities of

the market and the regulatory approaches of the states.

Mr. Scoggin explained that travel agents who distribute travel insurance are not in the business of insurance or are they perceived to be by consumers. Travel insurance products are rarely, if ever, offered by insurance agents who sell major lines of insurance, such as property and casualty or health coverage. In the modern market, travel agents may do business in one state or many states and can often not reasonably predict the state or states in which they might do business as they could receive a call from anywhere for travel services.

Mr. Scoggin pointed out that the National Association of Insurance Commissioners (NAIC), as well as the National Conference of Insurance Legislators (NCOIL) have recognized the issues with limited lines licensing and have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance through travel retailers. The NAIC standards and the NCOIL Model Act are the framework for this proposed legislation. **Mr. Scoggin** said this legislation will allow a travel retailer to offer and disseminate travel insurance under a licensed insurance provider, but only if certain consumer protections are met. The legislation requires the licensed limited lines travel insurance producer and the travel retailer to meet administrative and disclosure requirements. Certain disclosures to the consumer are required in the marketing materials and fulfillment packages, and requires the producer to establish and maintain a transaction record. **Mr. Scoggin** explained the DOI is supportive of this legislation and he is not aware of any opposition. This legislation is in place in 44 other states, including surrounding states.

DISCUSSION: **Senator Anthon** and **Mr. Scoggin** had a conversation about the purpose of regulation. **Mr. Scoggin** said there was a real need for regulation that says as companies do business in various states, they know the rules and there is no guessing. Fees are assessed by the producer. Insurance companies pay fees to the DOI. Some states charge a fee and others do not.

MOTION: **Senator Guthrie** moved that **S 1079** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1117 **Relating to Self-Funded Insurance Plans.** **Senator Thayn** provided background information and the rationale for this proposed legislation, the purpose of which is to make it easier to create self-funded health insurance plans. The proposed legislation adds to the current law giving authority to the Director of Insurance to extend a self-funded plan by up to 12 months to meet the minimum surplus requirements. All other requirements must be met.

TESTIMONY: **Eric Exline**, Chief Communication Officer, West Ada School District, testified in support of the bill. He said that in an effort to continue to control the cost of health insurance provided for district employees, West Ada has been researching implementing a self-funded insurance program. The initial investigation shows that implementing a self-funded plan has the potential to reduce insurance costs. The district estimates a savings of \$1 million per year, which can be used to hire teachers, purchase books or provide technology in the classroom.

Mr. Exline indicated that starting such a program would require careful planning to make sure that the program is fiscally sound and meets the requirements currently set forth in Idaho Code. Creating an appropriate reserve account is a very important part of the process. **Mr. Exline** stated that by making a change in the current code, there would be a greater opportunity for West Ada School District to pursue the opportunity to save money on the cost of employees' health insurance while ensuring that the plan is fiscally sound and protects employees' health benefits.

DISCUSSION: **Senator Burgoyne** asked that if there was no amendment, what would the constraints be for the district. **Mr. Exline** explained it would be hard to build up the required reserves in one year.

Kelly Grebinsky, Actuary, representing Emmett School District, said that in order for Emmett School District to self-insure, a bond of \$2.5 million had to be posted. Risk is eliminated if funds can be raised in 24 months.

Chairman Patrick asked if it would be better to combine small school districts in order to increase the pool and reduce risk. **Mr. Grebinsky** said that the requirements are different for a pool.

Vice Chairman Guthrie asked about the risk. **Mr. Grebinsky** stated the insurance company would cover aggregate insurance. **Senator Burgoyne** asked if reinsurance is required in these types of situations. He asked if claims would go against the plan and not the school district. **Mr. Grebinsky** stated the claims are separate from the school district operating budget. Any gains or savings from a self-funded plan remain on the health plan side of the books. **Senator Burgoyne** wanted to be reassured the school district would not be at risk. **Mr. Grebinsky** said that once the surplus levels are reached and maintained, there is no risk to the district. There is risk to the District during the time it takes to build reserves. The goal is to minimize the risk.

Superintendent Wayne Rush, Emmett School District, commented that the school district was trying to find creative ways to manage money. The district has a \$500,000 contingency fund. The District would be allowed to put \$200,000 in a plan for health insurance. The District knows they will have enough cash on hand without endangering the District.

Chairman Patrick asked if adding another 12 months was risky. **Dean Cameron**, Director, Department of Insurance (DOI), said obviously self-funding is not appropriate in every circumstance. Employees of a district should be carefully considered. Meeting a reserve requirement in 12 months is difficult. This provision of the law could be modified, but all other conditions must be met. The DOI does not regulate the school district, but self-funded plans are regulated. The DOI already has the authority to promulgate rules relating to self-funded plans.

MOTION: **Vice Chairman Guthrie** moved that **S 1117** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion.

Senator Burgoyne mentioned he supported the motion, but was not sure how he would vote on the floor of the Senate.

The motion carried by **voice vote**.

PRESENTATION: **International Chamber of Commerce**. **Megan Ronk**, Director, Department of Commerce (DOC), introduced Eddie Yen (Asia Office). **Ms. Ronk** said that Tara Qu (China Office) and Fabiola McClellan (Mexico Office) had presentations in the House and all had an appointment with the Governor. **Mr. Yen** talked about the activities of his office and that of the China office, which included Idaho exports to Taiwan. Taiwan is currently Idaho's third largest export market. Idaho exports beef to Taiwan and China. He remarked that Taiwan was now doing business with Vietnam. There will be another trade mission in Taiwan in November.

Senator Martin thanked Mr. Yen for his presentation. **Senator Anthon** thanked the Department of Commerce for their efforts.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:57 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, March 07, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of February 21, 2017 Minutes of February 23, 2017 Minutes of February 28, 2017	Senator Thayn Senator Souza Senator Ward-Engelking
<u>S 1048</u>	Relating to Insurance Companies Selling Limits-Type Underinsured Motorist Coverage	Senator Rice
<u>S 1076</u>	Relating to Protection of Public Employees	Senator Lakey
<u>H 63</u>	Relating to the Employment Security Law	Georgia Smith, Deputy Director, Communications and Research, Department of Labor
<u>H 118</u>	Relating to Cemeteries	Jim Burns, Securities Bureau Chief, Department of Finance
<u>RS25464</u>	Unanimous Consent for Referral to a Privileged Committee for Printing	Dean Cameron, Director, Department of Insurance

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
email: scom@senate.idaho.gov

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 07, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Thayn** moved to approve the Minutes of February 21, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Souza moved to approve the Minutes of February 23, 2017. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Senator Ward-Engelking moved to approve the Minutes of February 28, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1048 **Relating to Insurance Companies Selling Limits-Type Underinsured Motorist Coverage.** **Senator Rice** said this bill adds requirements that insurance companies selling limits-type underinsured motorist coverage provide a summary explanation of the effect of such limits-type underinsured motorist coverage to purchasers prior to issuance of the coverage.

Senator Rice explained there is no fiscal impact to the General Fund or local government because the responsibility required by the change is on the seller of underinsured motorist coverage. There is a marginal cost to auto insurance sellers.

Chairman Patrick asked if the disclosure had to be in writing every year upon renewal. **Senator Rice** said yes.

TESTIMONY: **Michael Kane**, representing the Property Casualty Insurers Association of America, testified in support of this bill.

Senator Burgoyne asked if the notice would come with the renewal on a declaration page. **Mr. Kane** said there will be a special form that a person has to actually sign.

MOTION: **Senator Guthrie** moved that **S 1048** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

S 1076

Relating to Protection of Public Employees. **Senator Lakey** said the proposed amendment would make the subsection consistent with the title and other subsections by adding the same language regarding protections for employees who report the violation of government waste or a violation of law, rule or regulation under the Whistleblower Protection Act, Idaho Code § 6-2104. The language is included in Idaho Code § 6-2104(1), (3), and (4) and the amendment would add to subsection (2). The clarifying language will specify that an employee is protected from employer retaliation when participating or revealing information in an investigation, hearing, court proceeding, legislative, or other inquiry.

Senator Lakey cited a recent court case where an individual prevailed at the district court level because the validation regarding the employee did not pertain to government waste or violation of the law. The individual appealed to the U.S. Supreme Court. The Supreme Court took a literal view and said that despite the apparent intent of the Whistleblower Protection Act, the literal language did not require that the Act relate to government waste or a violation of the law. Participation in any investigation or administrative review is protected. **Senator Lakey** explained that what this proposed legislation does is to insert language that is similar to Section 1 and the other sections that tie the investigation to the existence of any waste of public funds, property or manpower or a suspected violation of the law, rules, or regulation.

Senator Lakey stated there is no quantifiable fiscal impact to the General Fund or to other political subdivisions because the numbers and types of claims that may be asserted are unknown. There may be a savings in limited exposure to liability by all levels of government.

Senator Lakey went over the amendment to this bill. He said that on page 1 of the printed bill, lines 23 through 29 would be deleted and (2) (a) "An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding legislative or other inquiry, or other form of administrative review" would be added. Also added would be (b) "For purposes of paragraph (a) of this subsection, an employee participates or gives information in good faith if there is a reasonable basis in fact for the participation or the provision of the information. Good faith is lacking where the employee knew or reasonably ought to have known that the employee's participation or the information provided by the employee is malicious, false or frivolous."

MOTION:

Senator Burgoyne moved that **S 1076** be referred to the 14th Order for amendment. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 63

Relating to the Employment Security Law. **Georgia Smith**, Deputy Director, Communications and Research, Department of Labor (DOL), said the purpose of the bill was to amend references from the Workforce Investment Act (WIA) to the Workforce Innovation and Opportunity Act (WIOA) in Idaho Code § § 72-1336, 72-1336A and 72-1366.

Ms. Smith said there is no fiscal impact. The changes represented in this bill are in technical references to what was formerly the Workforce Investment Act (WIA), now the Workforce Innovation and Opportunity Act (WIOA).

Ms. Smith outlined the significant changes between what WIA passed in 1998 and what WIOA passed in 2014. She said one of the changes was the alignment of the U.S. Department of Education and the U.S. DOL workforce programs designed to increase occupational skills, employment retention, and earnings of program

participants. In addition to the DOL, other State agencies included in carrying out the Act include the Idaho Division of Career and Technical Education, Idaho Division of Vocational Rehabilitation, and the Idaho Commission for the Blind and Visually Impaired. Another change was a requirement for a single, statewide plan with standardized performance measures between the State agencies charged with carrying out these programs.

Ms. Smith remarked the programs funded through the WIOA focuses on enrolling eligible participants in training/educational opportunities that lead to employment in high growth or in-demand jobs. Priority is given to participants from low-income households and with barriers to employment. Most of Idaho's adult and youth program participants who are enrolled in the WIOA programs receive some level of public assistance. Year after year, 80 percent or more of Idaho's program participants on public assistance become employed by the time they exit the program. As a highlight in program year 2015, 100 percent of Idaho public assistance recipients in the Dislocated Worker Program were employed when they left the program. The average cost per participant, not just training, was \$3,321 for adults, \$3,932 for dislocated workers, and \$4,207 for youth. The DOL serves approximately 1,500 to 2,200 eligible participants per year.

DISCUSSION: **Senator Souza** asked if there were any new changes. **Ms. Smith** explained the only changes were technical references to the program.

MOTION: **Senator Martin** moved that **H 63** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 118 **Relating to Cemeteries.** **Jim Burns**, Securities Bureau Chief, Department of Finance (DOF), said the purpose of this legislation is to make one technical correction and to give the Director of the DOF, in certain events, the temporary authority to order that endowment care funds be administered in a manner that provides for the reasonable care and maintenance of an endowment care cemetery. **Mr. Burns** remarked that approximately 50 percent of people are opting to be cremated rather than a burial. The DOF's role is currently limited solely to examining and ensuring that endowment care cemeteries are properly placing a portion of plot, niche and crypt sales into a trust fund as required under the statute. These trust funds are intended to help support the care and maintenance of the endowment care cemetery as promised. Cemetery authorities are required to make limited annual financial filings with the DOF.

Mr. Burns said this proposal is not expected to have any fiscal impact to the State. The amendment does not imply additional agency personnel time (hence no fiscal impact) as the statutory amendment seeks to only add additional means to temporarily block violations of the statute. There is no implied cost to the industry if they are acting in compliance with the law. There is no penalty provision associated with this statutory amendment. **Mr. Burns** explained there are only 13 endowment care cemeteries that are currently subject to regulation under the Endowment Care Cemetery Act.

Mr. Burns said the DOF seeks to address a gap between when violations are being identified relating to trust fund distributions and when legal action is taken by the Attorney General (AG) or the related cemetery authority. Currently if the DOF identifies that trust funds are being mishandled or that proper trusting of funds is not occurring, the only recourse is to notify the AG's Office, the cemetery authority and the trustees of the endowment funds of the violation. The AG has 90 days after notice to initiate an enforcement action. Notifying, educating and assisting the AG to initiate an action will take some time. This potential time lag is the reason for this legislation.

Mr. Burns explained the DOF is seeking a change that would allow an administrative order to temporarily freeze endowment care cemetery trust funds in cases where trust funds are being misapplied or misappropriated. The freeze would last no more than 90 days and would provide the DOF with an opportunity to work with the AG or the cemetery to resolve the potential violations of the Act.

Mr. Burns said the DOF would like to amend the bill as there is a need to eliminate any ambiguity associated with the current wording and identify when exactly a freeze order issued by the DOF would expire. This realization of this ambiguity was clearly identified sometime after the bill was on the House floor.

MOTION: **Senator Anthon** moved that **H 118** be referred to the 14th Order for amendment. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 25464 **Relating to Upgrade to High Risk Reinsurance Pool.** **Dean Cameron**, Director, Department of Insurance (DOI), said the purpose of this bill is to amend existing law to allow for individuals with high risk medical conditions and their dependents who are enrolled in individual health benefit plans to be reinsured through the Idaho Individual High Risk Reinsurance Pool. Current pool enrollment consists only of individuals and dependents who were unable to obtain health insurance due to a health condition and who had enrolled in one of five standardized plans. These standardized plans are no longer feasible, so the bill proposes a different method to continue to utilize the pool as a reinsurance mechanism (while grandfathering coverage for current pool enrollees) that will help stabilize the individual health insurance market in Idaho, encouraging insurers to continue to offer individual health benefit plans to Idaho consumers.

Mr. Cameron stated there is no direct fiscal impact to the General Fund or any other State fund or expenditure. However, allowing for reinsurance of high risk individuals will act to stabilize the individual insurance market, increasing the likelihood that Idahoans will continue to have a robust choice of insurers and health plans, which will foster competition and tend to lower health insurance premiums. Each carrier would be required to pay an assessment in the event there were more claims than revenue.

Vice Chairman Guthrie stated he had a conflict of interest pursuant to Senate Rule 39 (H), that he serves on the High Risk Reinsurance Pool Board.

MOTION: **Senator Guthrie** asked for unanimous consent to send **RS 25464** to a privileged committee for printing. **Chairman Patrick** asked if there was opposition to the unanimous consent request. There were no objections.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:07 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, March 09, 2017

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of Sarah E. Griffin, Idaho Personnel Commission	Sarah Griffin
MINUTES APPROVAL	Minutes of March 2, 2017	Senator Anthon
<u>H 142</u>	Relating to Procurement by State Institutions of Higher Education	Senator Fred Martin Representative Brent Crane
<u>H 143</u>	Relating to State Procurement	Senator Maryanne Jordan
<u>H 86</u>	Relating to Public Works Construction Management Licensing	Ron Whitney, Deputy Administrator, Division of Building Safety
<u>H 87</u>	Relating to Plumbing and Plumbers	Ron Whitney
<u>H 98</u>	Relating to a Real Estate Broker's Business Name	MiChell Bird, Executive Director, Real Estate Commission
<u>H 119</u>	Relating to Real Estate Board Fees	Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses
<u>H 120</u>	Relating to Morticians and Funeral Home Directors	Mitch Toryanski
<u>H 121</u>	Relating to Driving Businesses	Mitch Toryanski

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick

Vice Chairman Guthrie

Sen Martin

Sen Lakey

Sen Thayn

Sen Souza

Sen Anthon

Sen Ward-Engelking

Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz

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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 09, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

**ABSENT/
EXCUSED:** Vice Chairman Guthrie

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Sarah E. Griffin, Boise, Idaho, to the Idaho Personnel Commission (Commission), to serve a term commencing February 28, 2017 and expiring July 1, 2021. **Ms. Griffin** said she believed her background in Human Resources, which has focused in employee relations, performance management, leadership development, and employee engagement positions her well to provide service to the State of Idaho in this role. She currently works for Idaho Power. She said she was honored to serve on the Commission.

MOTION: **Senator Burgoyne** moved to send the gubernatorial appointment of Sarah E. Griffin to the Idaho Personnel Commission, to the floor with the recommendation that she be confirmed by the Senate. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of March 2, 2017. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 142 **Relating to Procurement by State Institutions of Higher Education.** **Senator Martin** said this legislation, recommended by the State Procurement Laws Interim Committee, is intended to clarify language that was enacted last year by the State Procurement Act, H 538 (2016). That bill enacted Idaho Code § 67-9225, which required State institutions of higher education to procure property from State open contracts unless the property could be procured at "equal or less expense to the institution" from a vendor who was not party to the open contract. The term "expense" caused some confusion due to the manner in which that term is typically used by procurement professionals. This legislation is intended to clear up any confusion by revising Idaho Code § 67-9225 and including the term "cost" in lieu of "expense."

Senator Martin said this legislation will have no fiscal impact. The changes to the law are being made for clarity and are not substantive in nature.

DISCUSSION: **Senator Lakey** asked if there was an open contract, could an item be purchased at a lower cost. **Sarah Hilderbrand**, Administrator, Division of Purchasing, said there are open contracts which are mandatory by code. She said she was not sure if this legislation allowed for flexibility. She stated that the code addresses smaller products under the \$10,000 threshold. **Ms. Hilderbrand** said the statute did not require documentation.

MOTION: **Senator Lakey** moved that **H 142** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 143 **Relating to State Procurement.** **Senator Jordan** said this legislation, recommended by the State Procurement Laws Interim Committee, enables individual state agencies to: 1.) participate in cooperative purchasing agreements with other public agencies; and 2.) participate in contracts made by other Idaho public agencies (such as political subdivisions). Allowing agencies to participate in cooperative purchasing and to share contracts would reduce administrative costs to the State by requiring fewer solicitations. As cooperative purchasing agreements contain a higher volume of goods and services, State and other Idaho public agencies would likely be able to procure property for reduced costs as well. To ensure the integrity of the procurement process, this legislation requires that any shared contract must have been made after competitive bidding that is consistent with Idaho law.

Senator Jordan said this legislation will not have an adverse fiscal impact but would likely result in cost and operational savings for the State.

DISCUSSION: **Senator Souza** asked why "one year at a time" was permanently being removed. **Senator Jordan** explained that some contracts last more than one year.

MOTION: **Senator Anthon** moved that **H 143** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

H 98 **Relating to a Real Estate Broker's Business Name.** **Michelle Bird**, Executive Director, Real Estate Commission (Commission), explained that Idaho real estate license law requires the broker's licensed business name to be displayed on advertisements because the broker is responsible for the activities of the brokerage. Based on feedback received from licensees and consumers, this legislation would clarify that the broker's licensed business name must be readily noticeable on licensee advertising. **Ms. Bird** said this legislation will have no fiscal impact to the General Fund or the agency's or the agency's Special Real Estate Account because adding clarification to the advertising requirements does not compel additional agency action or create any new programs.

DISCUSSION: **Senator Souza** asked if this was something people needed to be told and how would "clearly" and "conspicuously" be defined. **Ms. Bird** said that often there has been confusion about the requirements. Complaints have been registered from other licensees when a business name has not been made clear. **Ms. Bird** remarked the Commission is trying to make the law clear and protect consumers in the process. **Senator Souza** asked if the governing board had a way of disciplining licensees. **Ms. Bird** stated that when there is a violation, the Commission takes an educational approach first and tells the broker their ad is misleading. A complaint can be filed and licensees can be fined; however, the Commission prefers not to file a complaint on a simple advertising violation. This bill will create clarity.

TESTIMONY:

John Eaton, representing the Idaho Association of Realtors, spoke in support of the bill. He said it was important to have this legislation for oversight in an attempt to make sure consumers receive the correct information as to who is responsible.

Senator Burgoyne said that if he was working with a real estate agent and the broker's name was not conspicuously displayed, he would call the Commission. He said if there was a problem and the name of the broker was displayed, he would work with the broker to solve the problem.

Senator Anthon asked for clarification of the law. He asked if the advertisement had to include the broker's license and business name. **Mr. Eaton** said the information needs to be specific. There are guidelines, but the guidelines are not as obvious as they should be.

Senator Souza remarked that agents have a contract with a broker and in the contract the name of the broker must be conspicuous. She wanted to know why this has to be put into law. **Mr. Eaton** said the agreement is with the broker and not the agent. The agent must tell the client the name of the broker. **Senator Souza** asked if there was a contract between an agent and a broker. **Mr. Eaton** said some contracts are in depth, but must be uniform throughout the State.

Senator Burgoyne commented this was a good bill and would be well understood by the courts. He said the addition of "clear" and "conspicuous" would be helpful in contested cases.

Senator Lakey remarked he did not like to dictate how businesses should function, but this is an innocuous bill. He spoke in support.

MOTION:

Senator Lakey moved that **H 98** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. **Senator Anthon** requested he be recorded as voting nay.

H 119

Relating to Real Estate Board Fees. **Mitch Toryanski**, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained the 2016 Idaho Legislature passed S 1318 relating to the Idaho Appraisal Management Company Registration and Regulation Act. Federal rules published after the passage of S 1318, will require Appraisal Management Company's (AMC's) that are registered and supervised by states, to pay registry fees in each state to be on the AMC Registry. This bill will give the Idaho Real Estate Appraiser Board the authority to collect these fees and pass them through to the appropriate federal agency or instrumentality.

Mr. Toryanski said this bill will have no impact on the State's General Fund. The IBOL will need approximately \$62,500 in spending authority in order to collect and pass through these fees. There is no fiscal impact because the amendment is consistent with current legislative practices.

DISCUSSION:

Senator Martin asked if the fees would add additional cost to the service provided. **Mr. Toryanski** deferred to Mr. Scott Calhoun, Appraiser and Vice Chairman of the Real Estate Appraiser Board (Board). **Mr. Calhoun** said that at some point fees come from the consumers. Banks are paying the AMC for the service they provide which could be built into appraisal fees that the consumer pays. He said he could not provide a direct connection of the \$25 fee in the transaction. **Senator Martin** asked if the fee was new or was this a fee that had not been recognized before. **Mr. Calhoun** said the fee was not built into the State fees because the Board would exceed the requirements of the AMC law. Smaller AMC's would be hurt as opposed to the larger ones. **Chairman Patrick** remarked that due to the competitive nature there could be a balancing out of the fees.

Senator Anthon asked what would happen if this bill did not pass and how would the fees be collected. **Mr. Calhoun** said the Board would be liable for passing through AMC fees. The monies would deplete registration fees to administer the AMC. The Board has gone from a negative budget to a positive budget next year.

MOTION:

Senator Martin moved that **H 119** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 120

Relating to Morticians and Funeral Home Directors. Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained this bill adds a new section to the Morticians, Funeral Directors and Embalmers chapter of the Idaho Code establishing that the Idaho Board of Morticians may issue inactive mortician and funeral director licenses.

Mr. Toryanski said there is no impact to the General Fund or to the IBOL's dedicated fund. There is no fiscal impact because the limited number of individuals who may wish to have an inactive license instead of an active license is usually offset by the number of individuals who let their license expire in the past because an inactive license was not an option.

DISCUSSION:

Senator Burgoyne asked how licenses would be reactivated. **Mr. Toryanski** said the IBOL would have to make rules. **Senator Burgoyne** commented that the requirement for a year of continuing education in order to reactivate a license seemed not to be enough.

Chairman Patrick asked if some morticians or funeral home directors came back after retirement or letting their license lapse. **Mr. Toryanski** said some retire, but keep their license inactive, some give up their license and regret the decision. He said the IBOL will examine the inactive license holder and may require additional items.

MOTION:

Senator Martin moved that **H 120** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 121

Relating to Driving Businesses. Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained this bill amends the Idaho Driving Businesses Act to clarify that when the Idaho Driving Businesses Licensure Board (Board) accepts a driving business license application, the applicant must submit a certificate of occupancy with the application only if the business teaches from a physical classroom. Currently, driving businesses must produce a certificate of occupancy whether they teach from a classroom or offer only online instruction. The amendment also makes driving businesses responsible for ensuring that its employees and persons under its control who provide driver education are at all times licensed.

Mr. Toryanski stated there is no impact to the General Fund or to the IBOL's dedicated fund. There is no impact because applications are considered by the Board during scheduled meetings and driving business responsibilities do not result in any new State program or compel State action.

MOTION:

Senator Anthon moved that **H 121** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 122

Relating to Architects - Licenses by Endorsement. Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained this bill amends the Idaho Board of Architectural Examiner's licensure by endorsement statute to allow architects licensed in other states to qualify for a license by endorsement or a temporary permit if they can pass an examination approved by the IBOL. This will allow the IBOL to consider applicants for endorsement licensure who may have taken an examination for licensure in another jurisdiction other than the examination which is required by the State of Idaho.

Mr. Toryanski said there is no impact to the General Fund or to the IBOL's dedicated fund. There is no impact because these applications are considered by the IBOL during scheduled meetings.

DISCUSSION:

Senator Burgoyne asked if this amendment would put a burden on the IBOL to develop an exam and if at some point in the future would an exam be instituted if necessary. **Mr. Toryanski** said that if this issue comes up again, the IBOL would adopt an exam.

MOTION:

Senator Burgoyne moved that **H 122** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 86

Relating to Public Works Construction Management Licensing. Ron Whitney, Deputy Administrator, Division of Building Safety (DBS), said that in response to a contested case brought to the Public Works Contractor Licensing Board (Board), regarding what constitutes "acting in the capacity of a construction manager", DBS proposes to amend the existing language to provide clearer statutory language and to move existing authority from the Board to the administrator in order to coincide with the authority of the administrator in Title 54, Chapter 19, and to expedite and better address disputes that may be brought forward, without requiring formal Board action.

Mr. Whitney said there is no significant fiscal impact to the dedicated fund. The proposed legislation change is directed at enhanced definition of terms and a shift in authority. Public works license fees will not be modified which is the only revenue source for the affected fund.

DISCUSSION: **Senator Burgoyne** said he did not see a definition of a licensed construction manager in the bill. He asked how a certificate of authority helped. **Mr. Whitney** said the licensing is relevant to public works as some people call themselves a construction manager, but are not certified. A certified construction manager is a person of authority and a requirement for public works contracts.

MOTION: **Senator Martin** moved that **H 86** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** voted nay.

H 87 **Relating to Plumbing and Plumbers.** **Ron Whitney**, Deputy Administrator, Division of Building Safety (DBS), said the initial intent of this idea was to align the plumbing statutes with those of the mechanical and electrical programs. The Plumbing Board has requested more time to study the impact of the legislation before moving forward. However, the remuneration of Board members has and is negatively impacting the retirement saving programs of some Board members, who are requesting that portion of the proposed legislation move forward without delay. **Mr. Whitney** said there is no fiscal impact. The proposed legislation change will affect the compensation of the Plumbing Board members by changing from a salary to an honorarium, but it will not change the amount of pay.

MOTION: **Senator Martin** moved that **H 87** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:41 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Tuesday, March 14, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of March 7, 2017	Senator Burgoyne
<u>H 243</u>	Relating to the Department of Labor Requesting Criminal Records	Kenneth Edmunds, Director, Department of Labor
<u>S 1150</u>	Relating to Individual High Risk Reinsurance Pool	Hyatt Erstad, Chairman, Idaho High Risk Insurance Board
<u>H 136</u>	Relating to Insurance	Michael Kane, Idaho Sheriff's Association
<u>H 138</u>	Relating to the Practice of Accounting	Ken McClure, Board of Accountancy
<u>H 99aa</u>	Relating to Real Estate Licenses	Michelle Bird, Executive Director, Real Estate Commission
<u>H 145</u>	Public Employee Retirement System of Idaho (PERSI) - Revise A Definition	Representative Steven Harris

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
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MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 14, 2017

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Ward-Engelking, and Burgoyne

ABSENT/ EXCUSED: Senator Anthon

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 Patrick** called the Senate Commerce and Human Resources Committee (Committee) Meeting to order at 1:00 p.m.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of March 7, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 145 **Public Employee Retirement System of Idaho (PERSI) - Revise Definition.** **Representative Harris** said the definition of an "employer" for the purpose of admittance into PERSI is very broad. This bill narrows that definition, limiting it to a "unit of government" for any new entry into PERSI.

Representative Harris said there is no fiscal impact to the General Fund because the amendment is consistent with current legislative practices.

Representative Harris referred to possible amendments to the current bill. He said that the language in the current bill stated that "provided however, that on and after the effective date of this act, no new employer that is not a statutorily created unit of government of the State of Idaho may be added to PERSI." He proposed the language could be modified to, "provided however, that on and after the effective date of this act, all new employers added to PERSI must be in compliance with Internal Revenue Service (IRS) regulations governing governmental retirement plans."

TESTIMONY: **Don Drum**, Executive Director, PERSI, said that PERSI has to be in compliance with IRS. State law can be stricter than federal law. **Mr. Drum** gave a brief history of entities that use governmental plans but that do not meet the proposed rules. He remarked that the new clarification in the code helps PERSI.

DISCUSSION: **Senator Thayn** asked if the current wording of the proposed bill was preferable to the amended wording. **Mr. Drum** said the current language in the proposed bill is more restrictive than IRS code. He stated he would accept either the current language or the amendment.

Senator Burgoyne asked if there were any entities currently in the PERSI plan. **Mr. Drum** explained that the way the bill is written, would have no effect on those already in the plan. **Senator Burgoyne** asked if there were any other non-governmental entities that are interested in joining PERSI. **Mr. Drum** remarked that in the last four or five months PERSI has been approached by several entities who are not in compliance with the current or proposed IRS regulations. Some entities who work under cities and counties via a contract wanted to join PERSI. If for any reason the contract was terminated, cities and counties would have

unfunded liability.

Senator Lakey asked about the wording of "statutorily created unit of government" and if that was an attempt to describe what is in IRS code. **Mr. Drum** said there was an attempt to limit PERSI to governmental entities. **Senator Lakey** stated the issue was compliance with the government retirement plan and asked if Mr. Drum was comfortable with the amendment. **Mr. Drum** said he was comfortable with the wording in either proposal. **Representative Harris** remarked that PERSI wanted to be compliant with IRS regulations.

Senator Lakey stated his preference would be to send the bill to the amending order as he had a concern with the existing language because "statutorily created unit of government" is not language used or defined in Idaho Code and created a gray area.

Vice Chairman Guthrie stated he preferred the current language in the bill because when "IRS" is inserted into the language, problems can be created.

Senator Burgoyne stated he supported Senator Lakey's approach since PERSI will ultimately have to follow IRS regulations.

Senator Thayn stated there could be a different amendment that addresses Vice Chairman Guthrie's concerns and he was in support of sending this bill to the amending order.

Senator Lakey offered to help with amending the bill and reiterated that PERSI will have to comply with IRS regulations.

MOTION:

Senator Lakey moved that **H 145** be referred to the 14th Order for amendment. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

H 243

Relating to the Department of Labor Requesting Criminal Records. **Kenneth Edmunds**, Director, Department of Labor (DOL), said this change allows the DOL to request and require an employee, applicant, contractor or prospective contractor, who has or will have access to Internal Revenue Service (IRS) federal tax information, to provide the information and fingerprints necessary for obtaining criminal history information from the Idaho State Police (ISP) and the Federal Bureau of Investigation (FBI), pursuant to Idaho Code § 67-3008. The IRS has a new requirement for positions with access to federal tax data to have a national criminal history background check. The DOL will use the information derived from the background check to determine the suitability of those positions, employees, applicants, or contractors that would have access to federal tax information.

Mr. Edmunds explained that there are 26 employees who currently work with or have access to federal tax information and are required by the IRS to undergo a State and federal fingerprint-based background check. The estimated fiscal impact of this legislation includes conducting FBI fingerprint-based background checks through the ISP for 26 existing employees and contractors at \$47 per person for a total of \$1,222.

Mr. Edmunds said the U.S. Department of Labor requires the DOL to use the IRS Treasury Offset Program (also known as federal tax information) to recover unemployment insurance overpayments paid to claimants who obtained those benefits through fraud or misreported earnings. He said the DOL began using the Treasury Offset Program in 2013. Since that time, this program has resulted in recoveries of slightly more than \$9.5 million.

DISCUSSION: **Senator Burgoyne** asked if refund checks were State or federal. **Mr. Edmunds** said the checks were federal. **Senator Burgoyne** asked how the \$9 million was recovered in the past without this bill. **Mr. Edmunds** explained that the recovery was mandated and these are new requirements.

Senator Souza asked what the anticipated financial benefit was to the State. **Mr. Edmunds** said the new mandate will allow the DOL to continue to collect tax refunds, amounting to several million dollars a year.

Senator Burgoyne clarified that if Idaho employers do not pay the unemployment taxes assessed by the State of Idaho that would result in the DOL seizing their individual federal refund. **Mr. Edmunds** said that if someone is not paying their fair share, seizing the federal refund helps all taxpayers. **Senator Burgoyne** asked if there were situations where the DOL would be using the opportunity to seize tax refunds. **Mr. Edmunds** deferred to Michael Johnson, Administrator, Unemployment Insurance, DOL. **Michael Johnson** said that something like that would take place under limited circumstances. Partnerships or corporations rarely receive tax refunds.

Senator Burgoyne said that he thought this proposed legislation is of benefit to those who have to pay unemployment tax so that all pay their fair share.

MOTION: **Senator Burgoyne** moved that **H 243** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

S 1150

Relating to Individual High Risk Reinsurance Pool. **Hyatt Erstad**, Chairman, Idaho High Risk Insurance Board (Board), said the purpose of this bill is to amend existing law to allow for individuals with high risk medical conditions and their dependents who are enrolled in individual health benefit plans to be reinsured through the Idaho Individual High Risk Reinsurance Pool. Current pool enrollment consists only of individuals and dependents who were unable to obtain health insurance due to a health condition and who had enrolled in one of five standardized plans. These standardized plans are no longer feasible, so the bill proposes a different method to continue to utilize the pool as a reinsurance mechanism (while grandfathering coverage for current pool enrollees) that will help stabilize the individual health insurance market in Idaho, encouraging insurers to continue to offer individual health benefit plans to Idaho consumers.

Mr. Erstad stated there is no direct fiscal impact to the General Fund or any other State fund or expenditure. However, allowing for reinsurance of high risk individuals will act to stabilize the individual insurance market, increasing the likelihood that Idahoans will continue to have a robust choice of insurers and health plans, which will foster competition and tend to lower health insurance premiums. Each carrier would be required to pay an assessment in the event there were more claims than revenue.

DISCUSSION: **Senator Thayn** asked why the "prior to April 1, 2017" for highly visible plans was mentioned in the bill. **Mr. Erstad** said that the Individual High Risk Insurance Pool that was established in the past used the April 1 date and he said those currently in the pool should not be forced out and will be grandfathered in prior to that date.

Senator Thayn asked for an explanation for high risk in the bill, page 6, lines 19 through 22, "the Board shall not submit for approval by the director a plan of operation or an amendment with an initial level of less than \$25,000 or a reinsuring carrier coinsurance percentage of less than 20 percent." **Mr. Erstad** explained that in the past when there was high risk, carriers were paying reinsurance costs to cede that business to the Board. Under the new legislation, there will be no need to be doing that aspect. **Senator Thayn** said he was not sure how everything worked together and asked for an explanation. **Mr. Erstad** stated the pool, since the Affordable Care Act (ACA) has been in place, has not been taking on any additional risks. However, as new legislation is moving forward, the makeup of the bill is changing.

TESTIMONY: **Dean Cameron**, Director, Department of Insurance (DOI), said that prior to this bill a person could purchase a high risk pool product. There were five standardized plans that are being stricken from this bill. One of the products could be purchased if an individual had been declined by a carrier, which under current ACA law, that is not permissible. **Mr. Cameron** explained that no one can be declined. Most people left the high risk pool to sign up for the ACA. What this bill does is to be proactive depending on what is coming from the federal government. Instead of buying a product, the insurance company would cede the risk and would determine if the insured person is a high risk individual as defined by the Board. The carrier would determine if the individual was a high risk that qualified and would cede that risk to the pool. **Mr. Cameron** stated the pool would share in the claims with a \$25,000 deductible, which is the point at which the pool begins, and the pool pays 80 percent while the insurance carrier would pay 20 percent. Based on the amount of revenue the pool has, a readjustment can be made. Regardless as to whether federal funds are received, the DOI has money that currently flows into the pool which are premium tax dollars or one-fourth above \$45 million and payment by the carriers. There is a mechanism that if there are more claims than revenue collected then all the carriers are assessed to balance out the risk. The bill is broad. He said the Board met with the insurance carriers and decided that if something was changed, it would be harmful to the industry and consumers. The current law was restrictive as to who could participate.

Senator Burgoyne said his question relates to the definition of an eligible individual who is not eligible and did not participate in a group plan, but is enrolled in an individual health plan. He wanted to know how the premium is determined for someone enrolled in an individual health plan and how does an individual get into a high risk pool. **Mr. Cameron** explained that in the past an individual would be in the high risk pool by purchasing a plan. The future is that an individual is participating in the pool by virtue of being ceded by a carrier. A consumer is not going to know whether they are involved in the high risk pool. The carrier will make a determination based on a person's health risk and will decide if they want to cede the risk. **Mr. Cameron** stated that under current law, a carrier cannot rate an individual higher. The individual will not know at the time of application whether they have a health risk. It is only after the carrier has started paying the claims on that individual that they might know the customer has coronary heart disease, for example. The future federal law may allow some rating of individuals. Pre-ACA there were requirements both in State and federal law that restricted how much someone could be charged who had high risk conditions versus someone who was perfectly healthy. Pre-ACA it was defined as a plus or minus 50 percent. An index rate for someone who was perfectly healthy could receive a discount of up to 50

percent, but if an individual had significant health conditions, the index could be raised to as much as 50 percent higher. If a carrier decides to cede the risk, they have to pay a cost for ceding the risk.

Vice Chairman Guthrie reported a possible conflict, pursuant to Senate Rule 39 (H) at the print hearing of the Routing Slip; conflict disclosure is continuing.

MOTION: **Vice Chairman Guthrie** moved that **S 1150** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 136 **Relating to Insurance.** **Michael Kane**, representing the Idaho Sheriff's Association, said the purpose of this bill is to assure that inmates in a county jail are not put in a position to be pressured by other inmates to do business with certain bail agents to the exclusion of other bail agents.

Mr. Kane said this bill has no fiscal impact on the General Fund of the State or any unit of local government because the Department of Insurance (DOI) is funded through premium taxes, and no local funds are involved in DOI enforcement proceedings.

MOTION: **Senator Burgoyne** moved that **H 136** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 138 **Relating to the Practice of Accounting.** **Ken McClure**, representing the Board of Accountancy, said this legislation updates the Idaho Accountancy Act to conform to current professional standards to American Institute of Certified Public Accountants (AICPA standards) and professional service offerings now provided by Certified Public Accountants (CPA's). Accountants' work has changed from "merely" working on financial statements to performing a different array of professional attest services that include internal control reviews for information systems, performing internal control work for publicly traded companies, and performing specific work for their parties, such as banks and governmental entities.

Mr. McClure stated there is no fiscal impact to the General Fund, to local units of government, or to the Idaho State Board of Accountancy (ISBA) because this is an update of current law and does not change regulatory activity nor raise fees or fee caps. The ISBA is a dedicated fund agency funded by accounting license fees and receives no monies from the General Fund.

MOTION: **Vice Chairman Guthrie** moved that **H 138** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 99AA **Relating to Real Estate Licenses.** **Michelle Bird**, Executive Director, Real Estate Commission (RE Commission), said Idaho law requires anyone brokering real property located in this State to hold an active Idaho real estate license. This proposal addresses a need in the market for a limited entry into Idaho for the purpose of brokering commercial real property. This need is driven by large scale consumers who may have portfolios with multiple properties across several states. This proposal would define commercial real estate and establish a cooperative license between an individual licensed in another jurisdiction and an Idaho broker for a single commercial real estate transaction. This legislation outlines requirements for out-of-state licensees to act in commercial real estate transactions in this State. It provides for supervision of the transaction by an Idaho licensed broker, document retention within this State, errors and omissions insurance, and consent to service with the Executive Director of the Idaho Real Estate Commission.

Ms. Bird said there is no General Fund or State or local political subdivision fiscal

impact. The agency's Special Real Estate Account would see a potential revenue increase from cooperative licenses of \$3,000. There would also be a \$2,000 agency cost for education on the law change. There is no fiscal impact because the amendment is consistent with current legislative practices.

Ms. Bird explained that currently, a commercial agent from another state that wants to do business in Idaho must obtain an Idaho license prior to practicing real estate in Idaho. An out-of-state agent that represents a larger investor, or a large company like Target, typically will not have the time or motivation to become licensed in Idaho, however, they would be willing to work with an Idaho agent to invest in Idaho. The out-of-state agent will seek to be involved in the transaction and split the commission, which is illegal under Idaho law. Unfortunately, under the current law there is an incentive for the Idaho agent to break the law and work with the out-of-state agent because of the large nature of the commission on these transactions. Agents typically see any fine from the RE Commission as a cost of doing business.

Ms. Bird stated that several years ago, Idaho and most states, had reciprocity with each other, so if an agent was licensed in one state that agent could do business in several other states. Nationwide that has completely disappeared, for a variety of reasons, over the past decade. While this has not had much of an impact on residential or farm and ranch listings, a problem has been caused in the commercial sector around the country. Many states have moved to address this issue. At present, there are only eight states left that have the same system as Idaho.

Ms. Bird said this bill would allow an out-of-state agent to sign a cooperative agreement with an Idaho broker for each transaction that they are involved with in Idaho. The agreement would be filed with the RE Commission and would require the out-of-state agent to abide by Idaho laws and show proof of errors and omissions insurance. The Idaho broker would have to agree to handle any money involved in the transaction, and agree to oversight of the out-of-state agent. The Idaho broker will ultimately be responsible for the transaction and the actions of the out-of-state agent. The unlicensed practice of real estate currently represents the largest number of violations of license law the RE Commission sees on an annual basis, particularly in the commercial sector. This bill will help cut down on these violations and allow Idaho agents to legally do business with their counterparts in other states and increase commercial investment in Idaho.

DISCUSSION: **Chairman Patrick** asked what kind of license is required for online transactions. **Ms. Bird** explained an Idaho real estate license would be required in order to work on any transaction in Idaho. **Chairman Patrick** remarked he was referring to transactions coming from another state. **Ms. Bird** said that as long as the realtor is in Idaho, the transaction could take place, but licensing and legislation would have an effect.

Senator Souza asked how the commissions would be split between an out-of-state agent and an Idaho agent. **Ms. Bird** said potentially the agents would split the commission, but it would depend on the agreement. The RE Commission does not regulate how commissions are split.

MOTION: **Senator Lakey** moved that **H 99 aa** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:01 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #2
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Thursday, March 16, 2017

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT	Committee Consideration of the Gubernatorial Appointment of Dr. J. Kirk Sullivan to the Public Employee Retirement System of Idaho Board (PERSI)	Dr. J. Kirk Sullivan
HONORING OF PAGE	Honoring of Page Ethan Oleson	Chairman Patrick
MINUTES APPROVAL	Minutes of March 9, 2017	Senator Martin
<u>H 166</u>	Relating to State Procurement	Senator Martin
<u>HCR 13</u>	Relating to Group Insurance	Representative Wood
<u>H 137aa</u>	Relating to Electricians	Representative Nate
<u>HJM 7</u>	Joint Memorial Relating to the Affordable Care Act (ACA)	Representative Loertscher
<u>H 244</u>	Relating to Insurance	Representative DeMordaunt

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
email: scom@senate.idaho.gov

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 16, 2017

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:00 p.m.

MINUTES APPROVAL: **Senator Martin** moved to approve the Minutes of March 9, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Dr. J. Kirk Sullivan of Meridian, Idaho, to the Public Employee Retirement System of Idaho (PERSI) Board, term commencing July 1, 2016 and expiring July 1, 2021. **Dr. Sullivan** said he has had 15 years experience on the Board of Trustees for PERSI. He thanked the Committee for the opportunity to serve on the PERSI Board.

MOTION: **Senator Martin** moved to send the gubernatorial appointment of Dr. J. Kirk Sullivan to the PERSI Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

HONORING OF PAGE: **Honoring of Page Ethan Oleson.** **Chairman Patrick** honored Page Ethan Oleson. **Mr. Oleson** said he has learned so much and he has had experiences that will last a lifetime. He said he was planning on attending Brigham Young University, Provo, Utah, and then on to graduate school for a Master's degree in business. **Chairman Patrick** thanked Mr. Oleson, and said he was an exceptional page and the Committee wished him the best.

H 166 **Relating to State Procurement.** **Senator Martin** said this legislation, recommended by the State Procurement Laws Interim Committee, repeals the existing statute on unlawful State contracts and replaces it with a new statute that would be more equitable to the contracting parties. For example, the new statute would allow a contractor to be compensated for goods delivered or services provided before the contract was found to be unlawful, which the current statute does not permit. **Senator Martin** stated here is no anticipated fiscal impact specifically associated with this legislation, which is primarily intended to clarify State policy in regards to certain contracts. **Senator Martin** yielded his time to Elizabeth Bowen, Legislative Service Office, who drafted the bill.

Ms. Bowen explained the new statute repeals Idaho Code § 67-9213 and that Idaho Code, Chapter 92, Title 67 would have a new section, to be known and designated as Idaho Code § 67-9213. **Ms. Bowen** said the current statute does not treat situations when a contract is declared illegal. In the new section if the bidder awarded the contract acted fraudulently or in bad faith, the contract

may be declared void by the Division of Purchasing (DOP) Director and allows contracts to be ratified for up to six months if there is an urgent public need for the goods and services provided under the contract. If a contract is terminated, appropriate compensation would be paid to the contractor, unless the contractor acted fraudulently or in bad faith, in which case the contract could be voided. Under no circumstances would a person, including a person challenging a solicitation or an award of a contract or a bidder awarded a contract found in violation of the law, be entitled to consequential damages in relation to a solicitation or an award of contract, including consequential damages for lost profits, loss of business opportunities, or damage to reputation.

Ms. Bowen explained that if it is determined in administrative or judicial review authorized by this new chapter that an award or proposed award of a contract is in violation of the law, and an employee or officer of the State acted fraudulently or in bad faith, the employee or officer shall be subject to the provisions of Idaho Code § 67-9233 and Chapters 4 and 5, Title 74 as applicable. Nothing provided in this new section will limit the application of the provisions of Idaho Code, Title 18, or the prosecution of any person under these provisions.

DISCUSSION:

Senator Anthon questioned whether the contract would be voidable. **Ms. Bowen** said the DOP Director is not obligated under statute to void a contract. **Senator Anthon** asked if there was anything different in the law between "void" or "voidable." **Ms. Bowen** explained that there is not a difference in remedies and that contract law would not apply.

Senator Burgoyne directed a question to Senator Martin. He referred to the bidder who was awarded the contract who did not act fraudulently or in bad faith and an employee or officer of the State acted fraudulently and was wondering why the word "unlawful" was not included. He asked why there was not a requirement for reformation of contract. He said it was odd to him that fraudulent and bad faith contracts were mentioned. **Senator Martin** explained that Idaho Code says that if a contract is void, all money has to be returned to the State. He deferred to Ms. Bowen. **Ms. Bowen** said the contract may be ratified and affirmed by the DOP Director upon a declaration of the administrator that immediate delivery of the property is required by public exigencies and that the acquisition of the property satisfies the standards established by the rules of the DOP for an emergency procurement. She stated the reasoning is that these types of situations would be rare. **Ms. Bowen** commented that contract ratification is limited to no more than six months and the Interim Committee was comfortable with this idea as the language addresses the problem and there would not be time to rewrite the contract.

Senator Burgoyne asked about "shall be prosecuted at law for the recovery of such moneys" and would there be liability in a civil suit. **Ms. Bowen** said yes.

MOTION:

Senator Guthrie moved that **H 166** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion.

Senator Burgoyne expressed his concerns with several parts of the bill referring to if the contractor was innocent that using the words "ratification of contract" was correct. He was not comfortable with the concept that the contract may be terminated by the DOP Director, and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract before termination, plus a reasonable profit. He questioned what is a "reasonable profit." He said that in his opinion the reasonable profit should not be refunded.

The motion carried by **voice vote**. **Senators Burgoyne** and **Thayn** requested to be recorded as voting nay.

H 137 AA

Relating to Electricians. **Representative Nate** said that currently Idaho Code § 54-1016 provides for property owners to do their own electrical work in their primary residence or associated outbuildings of the property without requiring the property owner to be licensed for electrical work. The current statute does not provide for property owners to do their own electrical work "on" their residence or outbuildings, however. This bill will fix the technicality and also permit homeowners to do electrical work in or on their residence, outbuildings and the land as well (for example, install a light for a flagpole or walkway).

Representative Nate stated there is no fiscal impact to the State General Fund because this is a regulatory change and requires no additional oversight by any State agency.

Representative Nate went over the amendment. He said that on page 1 of the printed bill, lines 26 through 30 were deleted. He said "(a) Any property owner performing noncommercial electrical work in the owner's primary or secondary residence, or associated outbuildings or land associated with the entire property on which those buildings sit, except that homeowner installations of renewable power generation connected to the community power grid shall be subject to a pre-plan review in accordance with local jurisdictions' policies and procedures prior to the purchase of a permit was inserted."

TESTIMONY:

Bob Scott, Chairman, Idaho State Electrical Board (Board), testified in opposition to this bill. He said the main problem with this bill is that the Board was not consulted. **Senator Souza** said it was her understanding that this bill was not meant to be a change in statute, but a clarification. **Mr. Scott** said he would agree, but he did not agree with the areas in the bill that allows a non-licensed homeowner to perform work on their residence.

Senator Martin gave an example of a homeowner who wanted to change an electrical outlet and asked if that type of work was permitted under the present code. **Mr. Scott** said a permit would be required, along with an inspection, but the homeowner could do their own work. **Senator Martin** asked if a homeowner could presently add a circuit for a hot tub. **Mr. Scott** remarked that it was his understanding that would not be allowed under the present code. **Senator Martin** asked if the proposed language in the bill would allow a homeowner to add a circuit for a hot tub. **Mr. Scott** replied that it appears that a homeowner would be allowed to add a circuit, but most are not qualified to do so. **Senator Souza** asked if a homeowner wired their own hot tub, would there be an inspection. **Mr. Scott** remarked that an inspector cannot catch everything. **Senator Souza** said she thought inspectors were experts. **Mr. Scott** reiterated that no expert could catch everything.

Senator Burgoyne asked if the proposed language would have been put before the Board, would it have been different. **Mr. Scott** said he could not speak for all of the Board, but there would have been public input. He said he wanted to clarify that agricultural work is considered commercial work.

Benjamin Baker, representing himself, said that he is a nuclear physicist. Last summer he was putting solar panels on his house and so was a neighbor. The neighbor was told he had to have a contractor install the panels, but he did not. He remarked the current statute says "in" primary residence which meant only within the building. This bill will allow a homeowner to perform their own work whether it is inside or outside of the house.

MOTION: **Senator Anthon** moved that **H 137aa** be sent to the floor of the Senate with a **do pass** recommendation. **Vice Chairman Guthrie** seconded the motion. The motion carried by **voice vote**. **Senator Martin** requested to be recorded as voting nay.

HCR 13 **Relating to Group Insurance.** **Senator Lakey** said this resolution authorizes the Legislative Council to reappoint the Interim Committee on Employee Health Benefits (ICEHB), to continue to complete a study of the State's employee group insurance plan structure, and to make recommendations for changes. He said that Representative Wood was also on the ICEHB.

Senator Lakey stated the cost of the meetings, including per diem and travel, are not expected to exceed a total of \$10,000. The cost to retain the services of a health care plan consultant or analyst, with prior approval from the Speaker and the Pro Tem, is estimated not to exceed \$125,000. These costs will be paid by the Senate and the House of Representatives by a General Fund transfer to the Legislative Account. To the extent possible, existing data, analysis, and resources will be utilized to complete the study; however, there may be additional expenses incurred by the Department of Administration for actuarial analysis related to the State employee group insurance component of the study.

DISCUSSION: **Senator Thayn** commented the resolution suggests whether the ICEHB should investigate whether the State should self-insure. He said he would like to have three consultants with different opinions for a robust conversation. He remarked there was nothing in the resolution about a transparency tool which should be discussed, as he thought the focus was on insurance and not on a reduction in costs for State employees. **Senator Lakey** commented the ICEHB was considering various options to find out if there was something that could be improved. The ICEHB could consider multiple consultant services by requesting proposals, evaluating, and determining who would be hired.

Senator Souza asked what the ICEHB covered last time. It is incumbent to address issues due to changes in the Affordable Care Act (ACA). This is a great opportunity to find options for State employees as a whole. She asked if the ICEHB evaluated innovative, unusual type, free-market possibilities when they looked at options.

Senator Lakey said there is a plan to give the State the option of self-funding insurance and the ICEHB is open to other options.

Vice Chairman Guthrie remarked that prior approval must come from the Speaker and Pro Tem and since the cost is limited, he would like to get a clear picture of their roles. **Senator Lakey** said the thought process was hiring one consultant, but if more than one was needed and the amount was under budget, the ICEHB could determine who was best qualified. His intent was to visit with the Speaker and the Pro Tem about this issue.

MOTION: **Senator Martin** moved that **HCR 13** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

HJM 7

Joint Memorial Relating to the Affordable Care Act (ACA). **Representative Loertscher**, said this Joint Memorial calls for returning to free market availability of health insurance plans in the State of Idaho, regulated by the State-established statutes, regulations, and rules governing such plans. This requested action is a simple return to the process in which health insurance plans in Idaho were developed and offered for sale prior to the enactment of the ACA. The Memorial does not call for a repeal of subsidized health insurance plans currently in effect or available on the Your Health Idaho Exchange. The Memorial simply requests that another non-subsidized option for health insurance coverage be made available to Idaho consumers.

Representative Loertscher stated there is no fiscal impact because this legislation seeks only to return to the free market status of the development and sale of health insurance plans existing prior to the ACA (2010). In a competitive market, without the costs of federal mandates contained in the ACA, these plans could provide savings to consumers on their annual health insurance costs.

DISCUSSION:

Senator Souza asked about the wording for existing subsidized plans under the State Exchange. She said she supports the free market. If we are subsidizing individuals, will the State be able to afford the premiums. **Representative Loertscher** said he thought so since insurance companies and the Department of Insurance (DOI) are working on this issue. There are more people who have non-subsidized insurance than those who have subsidized plans. He said it seems reasonable that the free market is reintroduced. **Senator Souza** asked if this resolution carries a mandatory purchase of some sort of insurance or would a person not have to buy insurance. **Representative Loertscher** said this resolution does not mandate insurance.

Senator Ward-Engelking commented there was no mention of anyone who finally purchased insurance, pre-existing conditions, or that children would be covered until they are 26 years old. She said she felt this resolution was negative. **Representative Loertscher** said this resolution was not negative and encourages health insurance to work in the free market. It does not do away with the State Exchange and does not ban the ACA. There is a market for a certain type of insurance. **Senator Ward-Engelking** stated that if the free market was available that Representative Loertscher would embrace that concept. **Representative Loertscher** said an individual should be able to choose and this Memorial is not more complicated than that.

MOTION:

Senator Martin moved that **HJM 7** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Souza** seconded the motion.

Senator Burgoyne said he agreed with the non-subsidized health insurance plans in accordance with State-established statutes, regulations, and rules governing such plans, but he had issues with the recitals, which he could not ignore.

The motion carried by **voice vote**. **Senators Burgoyne** and **Ward-Engelking** requested to be recorded as voting nay.

H 244

Relating to Insurance. Senator Heider (presenting for Representative DeMordaunt) said this legislation would require that an individual life insurance policy would include the option for the policyholder to designate an individual, in addition to themselves, to receive notification by mail 14 days prior to termination. This will be done on an annual basis. **Senator Heider** cited several examples of insurance companies who currently allow a second person to be identified as a designee. He stated several other states require notification be done by first class mail.

Senator Heider stated this legislation will have no impact to the General Fund or any unit of local government because the insurance policy is between the private individual and the insurance company. No additional State oversight is needed.

DISCUSSION:

Senator Anthon asked if a policy was issued or in force on or after January 1, 2018, was the notification monthly or more frequently. **Senator Heider** said the notification does not deal with monthly payment policies, but with annual policies.

TESTIMONY:

Kathy Peterson, representing herself, testified in opposition to the bill. She said she wanted a clause added that notification be sent to the policyholder and the beneficiary on the policy via certified mail with a signed return receipt whenever a policy was in jeopardy of lapsing. She said this would be the final notice available to better help stop involuntary forfeiture of a policy and to help prevent some cases of insurance fraud. She cited several instances when first class mail was used and the policyholder and/or the beneficiary never received the notification. This happened in the case of her mother, whose policy lapsed without the knowledge of the family.

Jeff Nuemeyer, representing United Heritage Insurance Company, spoke in support of this bill. He said it provided a safety net for Idahoans and applies to all policies. He said the American Council of Life Insurers (ACLI) has been involved in the development of this legislation. This is good public policy.

Woody Richards representing the American Family Insurance Company, Allstate Insurance Company, and Farm Bureau Mutual Insurance Company, and speaking with permission from Michael Kane, on behalf of the Property Casualty Insurers Association of America, testified in support of this bill. He said that notices from the insurance companies he represents are mailed by first class mail. Idaho law includes existing laws which only require a first class mailing instead of certified or registered mail. He cited Idaho Code § 60-109A, which allows governmental entities including counties, cities, and school districts to utilize first class mail. He cited Idaho Code § 41-3322, which states that when an insurance company becomes insolvent, notice to potential claimants will be sent by first class mail rather than by certified mail or registered mail. Insurance companies are trying to balance cost and effectiveness of the cost of mail, but still allow people to afford insurance.

DISCUSSION:

Senator Burgoyne said it was common in the field of administrative law that appeals must be sent by first class mail and not certified mail.

Senator Souza asked about the concerns of Ms. Peterson and the reliability of the mail and the other person receiving notice. **Senator Heider** said by mailing a first class letter to the second person will help so an insurance policy did not lapse.

MOTION: **Senator Souza** moved that **H 244** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:27 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #3
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
WW 54
Tuesday, March 21, 2017

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of March 14, 2017	Vice Chairman Guthrie
APPROVAL	Minutes of March 16, 2017	Senator Thayn
<u>S 1195</u>	Relating to the Employment Security Law	Mark Warbis, Communications Director, Governor's Office

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
email: scom@senate.idaho.gov

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 21, 2017

TIME: 1:30 P.M.

PLACE: WW 54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:31 p.m.

MINUTES APPROVAL: **Vice Chairman Guthrie** moved to approve the Minutes of March 14, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

Senator Thayn moved to approve the Minutes of March 16, 2017. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1195 **Relating to the Security Law. Mark Warbis**, Communications Director, Governor's Office, and liaison to the Department of Labor (DOL), said Idaho Code § 72-1350 would be amended to reduce the taxable wage rate used for determining employers' unemployment insurance taxes by adjusting the unemployment fund size multiplier downward. This bill will result in a substantial net tax savings to Idaho's covered employers.

Mr. Warbis stated lowering unemployment insurance taxes paid by businesses will have no fiscal impact on the State General Fund. Adjusting the unemployment fund size multiplier for calculating unemployment insurance taxes will result in \$115 million in tax savings for employers over the next three years and leave the trust fund at an acceptable level of solvency. For most employers, the change will reduce their unemployment taxes by 30 percent over three years starting in 2018. Adjusting the unemployment fund size multiplier will also reduce training tax collections to the Workforce Development Training Fund by \$3.6 million over three years starting in 2018.

Mr. Warbis said that failure to make the change will increase the multiplier to 1.5 on January 1, 2018. By making the change, Idaho employers will save an estimated \$46 million in 2018 and \$115 million over a three-year period. Most Idaho employers will see a 30 percent savings on their unemployment insurance payments. **Mr. Warbis** commented that without this change, the fund is expected to grow to almost \$1 billion by the end of calendar year 2020, which is more than is needed.

Mr. Warbis stated Idaho's unemployment insurance trust fund is at a strong and sustainable level. Even with this change, Idaho will remain well-positioned to weather another downturn of the magnitude of the Great Recession. The savings Idaho employers will hopefully realize will be used for higher wages, growing business, or putting more workers on the job.

DISCUSSION

Chairman Patrick asked if there would be another cut in the future. **Mr. Warbis** asked to yield his time to Ken Edmunds, Director, DOL. **Ken Edmunds** said the cut would not occur again if the wage rate was adjusted downward, as it would be self-correcting.

Vice Chairman Guthrie asked what should the correct balance be and was it not already self-correcting. **Mr. Edmunds** confirmed that the fund self-corrects. The formula is being changed to keep the funds at the same level, which allows adjustments for economic conditions. The current rate is too conservative. The new code defines a formula and not an amount. **Mr. Edmunds** explained that as the economy grows, wages grow, and the formula allows the fund to grow over time without an artificial change.

Mr. Warbis remarked the process for labor is very complicated. The goal is to deal with a recession if it occurs and a 1.3 taxable wage rate formula will still meet that requirement. This simple change allows flexibility for employers.

MOTION:

Senator Lakey moved to send **S 1195** to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 1:40 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
8:00 A.M.
Room WW54
Wednesday, March 22, 2017

SUBJECT	DESCRIPTION	PRESENTER
H 139	Relating to Barbers and Cosmetologists	Senator Den Hartog
MINUTES APPROVAL	Meeting of March 21, 2017	Senator Souza

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Patrick	Sen Souza
Vice Chairman Guthrie	Sen Anthon
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Thayn	

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
Phone: 332-1333
email: scom@senate.idaho.gov

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Wednesday, March 22, 2017

TIME: 8:00 A.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 8:00 a.m.

MINUTES APPROVAL: **Senator Souza** moved to approve the Minutes of March 21, 2017. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 139 **Relating to Barbers and Cosmetologists.** **Senator Den Hartog** said this bill combines the Idaho Barber Law and the Idaho Cosmetology Law and combines the Board of Barber Examiners and the Idaho Board of Cosmetology into a single board, called the Barber and Cosmetology Services Licensing Board (BCSLB) to regulate the barbering, barber-styling, cosmetology, and electrology professions. **Senator Den Hartog** stated this legislation allows for the transfer of education between professions and will facilitate efficiencies in licensing and oversight. The bill decreases barriers to employment and provides for business opportunities by exempting from licensure individuals who engage only in event styling and exempting from licensure businesses that only provide demonstrations of thermal styling products.

Senator Den Hartog stated there is no impact to the General Fund. It is anticipated that this legislation will reduce Idaho Bureau of Occupational License's (IBOL's) dedicated fund expenditures. Combining boards will result in fewer total board meetings, fewer board members, and therefore lower expenses. Moreover, it is expected that this bill will allow barber license fees to be lowered.

Senator Den Hartog said this bill will modernize the law. The bill is not endorsed by the Board of Cosmetology. She went over the changes in the proposed bill. **Senator Den Hartog** explained the bill would also provide for licensure applications, examinations, qualifications for licensure and for instructors, apprentices and students. The bill would provide for licensure of retail cosmetics dealers, and a makeover or glamour photography business. The bill also provides requirements for certain schools, endorsement licensure, scope of practice for an apprentice, inspection of establishments, and certain disinfection. Provisions would be established regarding issuance and display of licenses, license renewal and reinstatement, provisions regarding fees, discipline of licensees, and establish provisions regarding barber poles. Provisions would be established regarding prior boards and licensees, to prohibit certain acts, and to provide severability. Total required hours to become a cosmetologist will be reduced from 2,000 hours to 1,600 hours.

Senator Den Hartog said that a license should be retroactively reinstated and that

Idaho should grant reciprocity with other states. She said the BCSLB may recover the actual costs and fees, including attorney's fees, incurred by the BCSLB in the investigation and prosecution of a licensee upon the finding of a violation of this chapter or a rule adopted or an order issued by the BCSLB. This area needs to be readdressed next year.

Representative Clow said last summer he became aware that Master Educators Beauty School failed to pay their license renewal fees. They immediately paid the renewal when the lapse was discovered during an accreditation review. However, the payment was not retroactive and caused a problem with accreditation. He said he tried to work with the Board of Cosmetology, but no one was willing to change their position as the law was explicit. He referred to page 16 of the bill, and said that license renewal and reinstatement shall be in accordance with Idaho Code § 67-2614, provided however, that if a licensee pays the renewal fee within 90 days of the failure to renew, and there is no other cause for the cancellation of a license that would otherwise be in good standing, the BCSLB's reinstatement action may be retroactive to the date of expiration, but the licensee may still be obliged to pay other costs or penalties provided by law or rule. This rule will provide some flexibility.

Representative Wintrow remarked that there was a business that wanted to open in the mall and sell curling irons, but that customers were not allowed to try the curling irons before purchase. She said she went to the Board of Cosmetology to ask for an exemption on curling irons. The exemption was not granted due to the current law. The business owner has insurance for all businesses in the kiosks and was willing to work with the Board of Cosmetology. She said that Wyoming and Utah both have exemptions.

TESTIMONY:

Kris Ellis, representing the NW College Federation, testified in support of the bill. **Ms. Ellis** said that Idaho has the highest number of hours required to complete cosmetology school. She stated the national average is approximately 1,500 hours and could be dropping as several states with already lower hours have pending legislation to lower the hours further. Only a couple of states do not include hair, skin, and nails in their scope of practice and some even include barbering.

Ms. Ellis remarked that cosmetology in Idaho was first regulated in 1929 and the 2,000 hours required to be a cosmetologist has been in effect since that time. She stated that to refuse to recognize how technology has changed education, and continue to have students with up to \$5,000 more in student debt than is necessary, is not prudent. **Chairman Patrick** asked if students would save money if the amount of required hours was reduced. **Ms. Ellis** said students would save between \$3,500 and \$5,000.

Senator Burgoyne asked how many hours would be required for an apprenticeship. **Ms. Ellis** said an apprenticeship was used infrequently. She commented that after 5 percent of theory training, a student can work on the floor.

Linda Mottishaw, licensed cosmetology instructor for 40 years, said she owns a school, and testified in opposition to the bill. She said bacterial infections and other diseases can all be transmitted in salons. Those practicing event styling need a license. Sanitation has to be done for public safety. If exemptions to licensure are allowed, the BCSLB would be exempt from making decisions on what is going on in establishments. **Chairman Patrick** asked if Ms. Mottishaw had witnessed many disease problems in Idaho. **Ms. Mottishaw**, said yes, especially lately. Clean combs and brushes are necessary. This proposed law still requires 4,000 hours for an apprenticeship. A reduction in hours does not necessarily reduce the amount of tuition.

Senator Burgoyne asked if Ms. Mottishaw's concern related to the number of hours and the lack of a license to practice. **Ms. Mottishaw** replied yes. **Senator Burgoyne** asked if the BCSLB would require inspection of off-site venues. **Ms. Mottishaw** said there would be no oversight. The public has no one to intervene if they have been adversely affected. The State does not know who is operating without a license.

Morgan Rodcliffe, cosmetologist, testified in support of the bill. She said she has been doing makeup for 12 years and is currently paying off \$20,000 in student loans. She said she did event styling, but according to the current law, she cannot be paid. **Senator Anthon** asked what the violation would be by doing event styling. **Ms. Rodcliffe** said by doing freelance makeup she would be breaking the law and the fine is \$1,000.

Ryan Evans, representing himself, testified in opposition to the bill. There are 25 licensed schools in Idaho and he called all but three. Currently, out of 25 schools, two were unable to support the bill one way or the other. Eighteen schools oppose this bill. Eighty-one percent of school owners are in opposition.

Senator Martin asked about the new requirement of 1,600 hours and asked Mr. Evans to explain in more detail. **Mr. Evans** said the reduction in hours will force tuition to increase at his school. He explained that students get hands-on experience. If the hours are reduced, a student would have less time to work on the public. **Senator Martin** asked if by the reduction in hours, would the school have a new group of students come in faster to offset costs. **Mr. Evans** explained that now most students finish in 12 months. With the reduction in hours, students would attend for nine months, which leaves a three-month gap.

Senator Burgoyne asked if Mr. Evans would suffer a financial loss. **Mr. Evans** stated he would be forced to adapt and that financially he would come up with something. **Senator Burgoyne** asked if he had his hair cut out-of-state, would Senator Burgoyne be unsafe. **Mr. Evans** said no, but his concern was still quality of education. He said he was there for his students.

Senator Souza asked Mr. Evans if this law passes, would it stop him from continuing to run his program in the same way and would his students be able to take a longer course. **Mr. Evans** said the law is detrimental to his business. If someone can finish school in 9 months instead of 12 months, the tuition will increase. He said he is affiliated with schools in Utah who currently require 2,000 hours as opposed to 1,600 hours.

Senator Ward-Engelking remarked that all opportunities are being examined, including online classes, which would then allow more time for hands-on hours. She asked if that was a possibility. **Mr. Evans** said he is an owner and an instructor who works 50 hours a week. Hands-on education is conducted every day. Students do not learn hands-on techniques by watching movies, although they could pick up a few things. He has seen students who need more hands-on experience, while some are naturally talented. The additional 400 hours builds confidence. In 85 percent of salons, cosmetologists rent a stall and compete with the person next to them.

Micalah Howard, independent makeup artist, testified in support of the bill. She said she wants to work legally. This bill affects the wedding industry. Freelance will never stop due to the movie, production, and photography businesses. **Ms. Howard** mentioned that the top makeup schools in the country only give a certificate. She stated she chose to be a makeup artist because it is her passion. She chose to freelance because she is a single mom. Because of freelance she

can pick her daughter up from school everyday and take her to her functions. She has never once had an issue with sanitation in her 14 years of practicing makeup.

Vicki Ellis, college owner, testified in opposition to this bill. She the bill directly affects her business, students, and their work. She said she learned how event stylists have been working illegally for years. She knows what it is like to get a license and the license means something. If this bill passes, then students are disenfranchised. There are too many bad things in the bill.

Senator Anthon asked about health and safety. **Ms. Ellis** explained she went to a testing facility and they did not talk about skills and all they cared about was sanitation. Disease can be passed to others. A facility can be shut down if lice are discovered on a client.

Nadia Saakyan, representing herself, testified in support of the bill. She said the current law makes it illegal for a licensed and non-licensed professional to provide hair and makeup services outside of a retail facility and be compensated for their time, product, and travel. There is a growing need for freelance artists. Consumers and clients should have the right to choose who they want to contract for their events. **Ms. Saakyan** said that many of those who have testified have mentioned their background and training. She said she did not believe that it is fair to compare cosmetology schools' education to makeup training and education.

Senator Burgoyne said he heard a suggestion from one of the opponents of the bill that event stylists are not trained or schooled. **Ms. Saakyan** said that she takes sanitation classes every three months and works for an employer who trains their employees.

Ronda Clark, school owner and cosmetologist for 30 years, testified in opposition to the bill. She said she has many students who come through her school. Proper sanitation methods are taught. The way this bill is written, freelance artists do not have to have any kind of license or training. Event styling means applying facial cosmetic products to customers, arranging customer's hair, or using thermal styling equipment on customer's hair in preparation for events including, but not limited to, weddings, dances, parties, and recitals. An "event" could be going out to lunch and the freelance person is exempt with no specified training.

Senator Den Hartog said that without government sanction, event stylists have become educated, perfected their craft, and have a successful business. She asked the Committee to send this bill to the floor with a do pass recommendation.

Senator Martin said he had several unresolved issues and called upon Kris Ellis. He asked for an explanation of a licensed person versus an event stylist. He remarked he heard in prior testimony that an event stylist can go to an event, but they are not licensed; does an event stylist have to be licensed. **Ms. Ellis** explained the bill would allow for both licensed and unlicensed event stylists. Many states do not regulate makeup artists at all.

MOTION:

Senator Souza moved to send **H 139** to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

SUBSTITUTE MOTION:

Senator Anthon moved to hold **H 139** in Committee. **Vice Chairman Guthrie** seconded the motion.

Senator Anthon said it appears there is a policy problem. He said he liked 70 percent of the bill, but it is so late in the legislative session, there is not enough time for this bill. The Board of Cosmetology needs to be more flexible. The vast majority of schools in Idaho are opposed and the bill needs more work.

Senator Souza said she and her husband own a special events business and that government is getting out-of-hand. She commented that people should be able to do their jobs and win or fail on their own reputations.

Senator Ward-Engelking said that there are many weddings and events in this State for which people are hired. There are problems in the bill, but the bill could be fixed next year. She said she supported the original motion.

Senator Burgoyne remarked he supported the original motion. He commented this legislation needs more work next year. He said he did not know how the Board of Cosmetology believed freelance stylists could be excluded. He said regulation is not very good, especially since he has visited several salons and they are not clean. Event styling will be done for film and theatrical events, regardless of the law.

Vice Chairman Guthrie remarked this was a tough vote, but it was the right thing to do to hear the bill. Much work needs to be done to make changes. If another week was left, the bill could go to the amending order. He said he liked the substitute motion. He remarked that if the regulatory board came down with a heavy hand, he would be upset.

Chairman Patrick called for a voice vote on the substitute motion. The motion failed by **voice vote**.

Chairman Patrick called for a voice vote on the original motion. The motion carried by **voice vote**. **Senator Anthon** and **Vice Chairman Guthrie** requested to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 9:03 a.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary