

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 08, 2019

SUBJECT	DESCRIPTION	PRESENTER
WELCOME	Opening Remarks	Chairman Jim Patrick
INTRODUCTIONS	New Member, Page	Chairman Jim Patrick
RULES REVIEW	Assignments	Vice Chairman Jeff Agenbroad

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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
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 08, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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. and welcomed everyone to the first meeting.

INTRODUCTION: **Chairman Patrick** introduced Senator Agenbroad, Vice Chairman. **Chairman Patrick** also introduced Page Sebastian Griffin and asked him to tell the Committee what high school he attended and give some background. **Sebastian Griffin** remarked he went to Nampa High School where he was Senior Class President and was on the honor roll. **Mr. Griffin** reported his future plans were to go on a Latter-day Saints mission, attend Brigham Young University, and obtain a master's degree in conjunction with a Juris Doctorate. He explained he was excited about being a page.

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

RULES REVIEW: **Vice Chairman Agenbroad** explained the types of rules and referred to a handout sheet from Dennis Stevenson, State Administrative Rules Coordinator, which defined rules and procedures. **Vice Chairman Agenbroad** referred to the spreadsheet that each Senator had with their rule assignments and said Senators could trade rules if they felt they had more expertise in a particular area. All rules were assigned. He remarked any changes would be updated on the spreadsheet and given to the Committee at a later date.

DISCUSSION: **Senator Burgoyne** queried if a letter could be sent to those presenting, expressing the Committee's desire to have a full explanation of incorporating by reference rules.

PASSED THE GAVEL: Vice Chairman Agenbroad passed the gavel to Chairman Patrick. **Chairman Patrick** reminded the Committee of the Change in Employee Compensation Committee (CECC) meeting, which was starting at 2:30 p.m. In addition, he reported the upcoming meetings would be on January 15 and 17, 2019 at 3:00 p.m.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 1:37 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Lincoln Auditorium
Thursday, January 10, 2019

NOTE ROOM CHANGE

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION:	Global Trade is Working for Idaho - Department of Commerce	Eddie Yen, Asia Office Tara Yu, China Office Fabiola McClellan, Mexico 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
Vice Chairman Agenbroad
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Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
Sen Ward-Engelking
Sen Burgoyne

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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 10, 2019

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

PRESENTATION: The members attended the Idaho Department of Commerce presentation Global Trade is Working for Idaho. Presenters were Eddie Yen, Asia Office, Tara Yu, China Office, and Fabiola McClellan, Mexico Office. Company representatives from Agri Beef and Aviation Specialties Unlimited provided testimonials to the Committee relating to exporting goods and services to other countries. A copy of the testimonials can be found on the Idaho Department of Commerce website.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:20 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 15, 2019

SUBJECT	DESCRIPTION	PRESENTER
DOCKET NO.		
<u>07-0101-1801</u>	Rules Governing Electrical Inspection Tags	Warren Wing, Electrical Program Manager, Division of Building Safety
<u>07-0103-1801</u>	Rules of Electrical Licensing and Registration - General	Warren Wing
<u>07-0103-1802</u>	Rules of Electrical Licensing and Registration - General	Warren Wing
<u>07-0104-1801</u>	Rules Governing Electrical Specialty Licensing	Warren Wing
<u>07-0105-1801</u>	Rules Governing Examinations	Warren Wing
<u>07-0106-1801</u>	Rules Governing the Use of the National Electrical Code	Warren Wing
<u>07-0107-1801</u>	Rules Governing Continuing Education Requirements	Warren Wing
<u>07-0108-1801</u>	Rules Governing Electrical Inspection Tag Appeals	Warren Wing
<u>07-0111-1801</u>	Rules Governing Civil Penalties	Warren Wing
<u>07-0102-1801</u>	Rules Governing Fees for Electrical Inspections	Warren Wing

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

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MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

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

DOCKET NO. 07-0101-1801 **Rules Governing Electrical Inspection Tags. Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), reported this pending rule was updated to account for changes in technology, terminology, and procedures used by the IDBS in issuing electrical permits. Recent amendments to Idaho Code updated terminology and procedures for electrical facility accounts and issuing electrical permits. **Mr. Wing** noted the word "tags" was deleted and "permits" was added.

Mr. Wing noted there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact on the General Fund. There is no incorporation by reference.

DISCUSSION: **Senator Guthrie** queried if more fees would be included by migrating from inspection tags to permits. **Mr. Wing** replied in the negative.

Senator Burgoyne referred to pages 16 and 17 and asked under what circumstances would permits be transferred. **Mr. Wing** explained an exception would be when a homeowner or contractor has fired the original contractor. The new contractor could pass on new permit fees.

MOTION: **Chairman Patrick** moved to approve **Docket No. 07-0101-1801**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0103-1801 **Rules of Electrical Licensing and Registration - General. Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), stated there are no changes to the pending rule and it is being adopted as originally proposed.

Mr. Wing noted that currently a contractor is presumed to be in violation of the ratio (journeymen supervising apprentices) by hiring more apprentices than journeymen. The new language makes it clear there is no violation unless the apprentices actually work out-of-ratio. This change would allow contractors to "adjust" the ratio by permission of the IDBS.

Mr. Wing explained that negotiated rulemaking was conducted. There is no fiscal impact to the General Fund. There is no incorporation by reference.

DISCUSSION: **Chairman Patrick** complimented Mr. Wing for the summary page and for making changes to be more user-friendly.

Senator Guthrie stated according to written statutes, apprentices have to be directly supervised by journeymen. **Senator Burgoyne** agreed. He inquired what it meant "to supervise" if the construction manager supervised 200 people on the site. Would the construction manager be responsible for the apprentices and was the rule clear. He remarked he was not confident the rule included the first level supervisor. The rule seemed to be aimed at the person who would have the 1:2 ratio. **Mr. Wing** remarked the rule applied directly to journeymen electricians and apprentices. He stated not all construction personnel on a job site would be included. One journeyman can oversee two apprentices. Specific permission must be given for exceptions, for example, if an apprentice was in the third year of the program.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 07-0103-1801**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0103-1802 **Rules of Electrical Licensing and Registration - General.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), stated this pending rule updates terminology for electrical licensing and registration. These updates align the terminology with terminology in recently passed amendments to Idaho Code § 54-10.

Mr. Wing announced there is no fiscal impact to the General Fund. There is no incorporation by reference.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 07-0103-1802**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0104-1801 **Rules Governing Electrical Specialty Licensing.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), explained that many provisions in this pending rule have not been updated to account for changes in technology, terminology, and procedures used by the IDBS for limited electrical (specialty) licensing and registration. Recent amendments to Idaho Code § 54-10, updated terminology and procedures for limited electrical licensing and registration.

Mr. Wing asserted there is no fiscal impact to the General Fund. There is no incorporation by reference.

MOTION: **Chairman Patrick** moved to approve **Docket No. 07-0104-1801**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0105-1801 **Rules Governing Examinations.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), noted this pending rule updates terminology for electrical licensing and registration. These updates align the terminology with terminology in recently passed amendments to Idaho Code §54-10.

Mr. Wing pointed out there is no fiscal impact to the General Fund. There is no incorporation by reference.

MOTION: **Senator Guthrie** moved to approve **Docket No. 07-0105-1801**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0106-1801**

Rules Governing the Use of the National Electrical Code. **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), advised there are no changes to the pending rule and it is being adopted as originally proposed. He noted this summary corrects an error that occurred during the publication of the proposed rulemaking. The error was a transcription error of the rule in Section 004, Incorporation by Reference, which was added to the rule of the required informational sections. It incorrectly stated that no documents are incorporated by reference into the rule. However, Section 011 of this rule does incorporate by reference the National Electrical Code (NEC). Section 004 is now a "RESERVED" section. Basically, what the rule does is align with the way inspections the State of Idaho has always conducted inspections. **Mr. Wing** noted these changes make it easier for industry to buy certain types of supplies.

Mr. Wing advised there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted.

MOTION:

Senator Souza moved to approve **Docket No. 07-0106-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0107-1801**

Rules Governing Continuing Education Requirements. **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), noted the Idaho Electrical Board (IEB) holds several regular meetings each year. In addition, the IEB and IDBS conduct several negotiated rulemaking meetings each year. These meetings are not always well-attended by industry members. In order to get the electrical industry more involved in the meetings of the IDBS, the IDBS wants to allow licensees to obtain continuing education credit for attending meetings.

Mr. Wing stated this rule requires journeymen and master electricians to complete 24 hours of continuing education every three years, including eight hours of code update and eight hours of code-related programs. Additionally, industry members have expressed a desire to be allowed to obtain continuing education in categories other than code update.

Mr. Wing advised this proposed pending rulemaking will allow licensees to obtain continuing education credit for attending meetings of the IDBS. This proposed rulemaking will also define code-related programs. Journeymen and master electricians will also be required to obtain eight hours of code update for every three-year cycle, but they will be allowed to obtain the remaining 16 hours of continuing education for every three-year cycle in any of the three categories.

Mr. Wing remarked there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION:

Senator Guthrie moved to approve **Docket No. 07-0107-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0108-1801**

Rules Governing Electrical Inspection Tag Appeals. **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), remarked many provisions in this pending rule have not been updated to account for changes in technology, terminology, and procedures used by the IDBS in issuing electrical permits and conducting electrical inspections. Further, recent amendments to Idaho Code updated terminology for conducting electrical inspections and issuing electrical permits. There was a grammar change which added the National Fire Protection Association (NFPA) 70 language to align with statute.

Mr. Wing explained there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 07-0108-1801**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0111-1801 **Rules Governing Civil Penalties.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), commented there have been recent amendments to Idaho Code that updated terminology for electrical facility accounts, electrical licensing, and registration.

Mr. Wing stated there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Senator Souza** inquired if the language was clarifying the scope of specialty for contractors and installers. **Mr. Wing** stated the contractor or the electrician can be fined for working outside the scope of their specialty. This has always been the policy of the IDBS.

MOTION: **Senator Souza** moved to approve **Docket No. 07-0111-1801**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0102-1801 **Rules Governing Fees for Electrical Inspections.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), noted this fee rule has not been updated to account for changes in technology, terminology, and procedures used by the IDBS in issuing electrical permits. Idaho Code recently updated terminology and procedures for issuing electrical permits. This rulemaking also allows and adds a fee for transferring electrical permits. The fee is \$45 for transferring electrical permits.

Mr. Wing indicated there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION: **Senator Thayne** moved to approve **Docket No. 07-0102-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

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

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:09 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #2
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 17, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26439</u>	Relating to the Uniform Securities Act	Jim Burns, Securities Bureau Chief, Department of Finance
<u>RS26456</u>	Relating to Collection Agencies	Anthony Polidori, Consumer Finance Bureau Chief, Department of Finance
<u>RS26473</u>	Relating to Electrical Contractors and Journeymen	Warren Wing, Electrical Program Manager, Division of Building Safety
<u>RS26474</u>	Relating to Electrical Contractors and Journeymen	Warren Wing
<u>RS26445</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace, Damage Prevention and Public Works Contractor Licensing, Division of Building Safety
<u>RS26449</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace
<u>RS26452</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace
<u>RS26462</u>	Relating to Public Works Contractors	Patrick Grace
<u>RS26457</u>	Relating to Heating, Ventilation, Air Conditioning (HVAC) Board	John Nielsen, HVAC Program Manager, Division of Building Safety
<u>RS26458</u>	Relating to Plumbing and Plumbers	John Nielsen

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

COMMITTEE SECRETARY

Linda Kambeitz
Room: WW46
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 17, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

RS 26439 **Relating to the Uniform Securities Act. Jim Burns**, Securities Bureau Chief, Idaho Department of Finance (IDF), provided background information and the rationale for this proposed legislation. He noted the purpose is to adapt the statute to numbering changes in federal statute. The IDF proposed these changes to retain authority to continue to require certain securities issuer filings and fees that were affected by federal preemption and rules passed by the U.S. Securities and Exchange Commission. **Mr. Burns** noted if the IDF is unable to effect this statutory change, the IDF estimates that approximately 300 issuer filings may be affected resulting in an estimated loss of revenue in an amount not greater than \$20,000. Failing to make this change may also deny Idahoans ready access to information regarding certain securities issuers (Attachment 1).

DISCUSSION: **Senator Lakey** questioned whether the federal and generic changes were open-ended and addressed in rule. **Mr. Burns** remarked this change was addressed in rule.

MOTION: **Senator Thayn** moved to send **RS 26439** to print. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

RS 26456 **Relating to Collection Agencies. Anthony Polidori**, Consumer Finance Bureau Chief, Idaho Department of Finance (IDF), stated the purpose of this legislation is to amend current provisions to reduce regulatory burdens on licensees. A provision is added to allow collection agencies to collect incidental charges included in the contract between the creditor and the debtor. **Mr. Polidori** commented additionally, the legislation makes the licensing process for collection agents, debt counselors, credit counselors, and credit repair entities similar to other entities licensed by the IDF by requiring the use of a nationwide system of licensing and allowing for reinstatement of expired applications.

Mr. Polidori advised that further, the legislation creates a Collection Agency Recovery Fund to allow reimbursement to persons to whom an Idaho court awards actual damages resulting from acts constituting violations of this chapter by a collection agent, debt counselor, credit counselor, or credit repair organization. To pay for the recovery fund, all licensees will have to pay a fee of \$250 for home office locations and \$100 for each branch office. However, to offset the recovery fund fee, the bonding requirement for licensees is eliminated. **Mr. Polidori** explained finally, the legislation addresses the need for enhanced communication between the IDF and the industries it oversees through measures authorizing the creation, by rule, of

an industry advisory board.

Mr. Polidori reported the proposed legislation does not alter license application fees collected by the IDF from licensees or license applicants. Also it does not alter the application of the licensing requirements to entities conducting covered activities in Idaho. There is no impact to the General Fund.

DISCUSSION: **Chairman Patrick** commented there have been abuses in the past by unlicensed agencies. **Senator Guthrie** and **Mr. Polidori** discussed the renewal of licenses and reinstatement requirements.

MOTION: **Senator Guthrie** moved to send **RS 26456** to print. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

RS 26473 **Relating to Electrical Contractors and Journeymen.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), reported that currently, electrical apprentice registrations expire after five years. In-state journeymen electrician applicants must attend four years of school and work 8,000 hours on the job. Out-of-state journeymen electrician applicants must attend four years of school and work 8,000 hours on the job or work 16,000 hours on the job. Apprentice and limited electrical installer trainee registrations that have expired may not be revived. Filing of and online access to employment verifications forms is only required for apprentices. **Mr. Wing** remarked the Idaho Electrical Board (IEB) and the electrical industry in Idaho have determined these requirements have been difficult for the IDBS to enforce and for many in the trade to achieve, thus creating barriers to entering and remaining in the trade (Attachment 2).

Mr. Wing summarized that this legislative proposal changes the length of apprentice registrations from five years to one year, allows in-state and out-of-state applicants to take the electrical journeyman's examination after working 16,000 hours on the job, requires filing of and online access to employment verification forms for all licensees and registrants, and allows the administrators to revive expired apprentice and limited electrical installer trainee registrations. This legislative proposal also gives the administrator of the IDBS authority to enter into reciprocal agreements with states that require electrician qualifications at least equal to those contained in Idaho Code.

Mr. Wing noted there is no fiscal impact to any State funds, including the General Fund and the IEB fund. This legislative proposal will change administrative processes associated with electrical licensing and registration, but will not change the costs of these processes or otherwise affect any State funds.

DISCUSSION: **Senator Ward-Engelking** addressed negotiated rulemaking and asked if there was consensus during that process. **Mr. Wing** affirmed there was not consensus but the IDBS Board approved the rule with the exception of the ratio (Attachment 1). **Senator Burgoyne** queried if there was an effort to provide consensus. **Mr. Wing** remarked there was a second negotiated rulemaking effort and the language being presented to the IDBS Board was outlined in that meeting. **Senator Burgoyne** and **Mr. Wing** discussed opposition to the rule from industry. **Mr. Wing** explained that statute had to be passed first and opposition was overridden by those in the negotiated rulemaking process. **Senator Guthrie** asked for more clarity and remarked that negotiated rulemaking and legislation did not appear to be consistent with the rules being reviewed. **Senator Ward-Engelking** commented she was concerned about the process and wanted more clarification.

MOTION: **Senator Thayne** moved to send **RS 26473** to print. **Senator Lakey** seconded the motion. **Senator Burgoyne** stated he could not support the printing of this Routing Slip (RS), as it appeared the impending issues had not been worked out. The motion carried by **voice vote**. **Senators Burgoyne** and **Ward-Engelking** voted nay.

RS 26474 **Relating to Electrical Contractors and Journeymen.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), stated that currently, electrical apprentice registrations expire after five years. During this time, an apprentice must attend four years of school and work 8,000 hours on the job. At the end of the five-year registration period, an apprentice must pass the journeyman's examination or renew registration to remain in the trade. An electrical apprentice may not renew a registration unless the apprentice can demonstrate completion of at least two years of school and 4,000 hours of work experience or extenuating circumstances that prevented achieving those requirements. The Idaho Electrical Board (IEB) and the electrical industry in Idaho have determined these requirements have been difficult for the IDBS to enforce and for many in the trade to achieve, thus creating barriers to entering and remaining in the trade. Accordingly, IEB and the electrical industry are in favor of an electrical installer category of licensure for apprentices who wish to remain in the trade without becoming journeymen or remaining apprentices. This legislative proposal will provide for an electrical installer category of licensure (Attachment 2).

Mr. Wing remarked there is no fiscal impact to the General Fund and the IEB fund. There will be a positive fiscal impact to electrical contractors employing electrical installers and electrical apprentices eligible to become electrical installers.

MOTION: **Senator Thayne** moved to send **RS 26474** to print. **Senator Souza** seconded the motion. **Senator Thayne** remarked there are issues where trained people have barriers to working. Addressing statute changes may help solve the problem. The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

RS 26445 **Relating to Underground Facilities Damage Prevention.** **Patrick Grace**, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), reported Idaho Code § 55-2205(2) requires underground facility owners to locate and mark all underground facilities in the State of Idaho. Some underground facility owners are also end-user consumers of utility services or commodities. Service laterals are underground facilities located in public rights-of-way or utility easements. End-users do not have operational control of, locational knowledge of, or the expertise or equipment to locate or mark service laterals, despite owning them, because the laterals are in rights-of-way or utility easements. **Mr. Grace** advised this legislative proposal will exempt end-users from the requirement to locate and mark service laterals. Underground facility owners with the ability to locate and mark service laterals will be required to do so.

Mr. Grace noted there is no fiscal impact to any State funds, including the General Fund and the Idaho Damage Prevention Board (IDPB) fund. There will be a positive fiscal impact for those underground facility owners who are exempted from the requirement to locate and mark service laterals. There will be a negative fiscal impact to underground facility owners who are required to locate and mark service laterals; however, many of these underground facility owners are already locating and marking service laterals.

DISCUSSION: **Chairman Patrick** and **Mr. Grace** had a conversation about how this rule applies to homeowners and others excavating on private property.

MOTION: **Senator Souza** moved to send **RS 26445** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 26449 **Relating to Underground Facilities Damage Prevention.** **Patrick Grace**, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), indicated under Idaho Code § 55-2211(1), the administrator of the IDBS recommends and the Idaho Damage Prevention Board (IDPB) imposes training or civil penalties for those who violate Idaho Code § 55-22. This process has proven to be inefficient for the alleged violator, complainant, and the IDBS. **Mr. Grace** reported this legislative proposal will give the administrator authority to impose training or civil penalties and the IDPB authority to hear appeals regarding imposed training or civil penalties. These changes will streamline the process and align with the process for other chapters administered by the IDBS.

Mr. Grace advised Idaho Code § 55-2211 provides authority for the IDPB to impose training or civil penalties and enhanced civil penalties for subsequent violations with facility damage. However, Idaho Code § 55-2211 does not allow passage of a certain amount of time to "reset" the violation record of a violator unless the violations involve facility damage. Further, Idaho Code § 55-2211 does not provide penalties for third, fourth, and fifth violations without facility damage. This proposed legislation will address both of these issues.

Mr. Grace specified Idaho Code § 55-2211(1) allows the IDPB to impose training for a first violation and civil penalties for further violations. However, this code only allows an alleged violator to contest the imposition of civil penalties. Because the imposition of training potentially affects an alleged violator's future liability under the statute, due process requires that alleged violators be given the ability to also contest the imposition of training. This legislative proposal will allow an alleged violator to contest both training and civil penalties.

DISCUSSION: **Senator Burgoyne** pointed out the language in the Statement of Purpose (SOP) and asked **Mr. Grace** to identify where the problem was fixed. **Mr. Grace** indicated the length of time something would be deemed a violation was not stated in the Routing Slip (RS) language. **Senator Thayn** questioned the use of the word, "may." **Mr. Grace** reported the language was old and the word "or" should have been used.

Senator Burgoyne explained the sponsor could have the option of changing the language in the RS. **Mr. Grace** replied changes could be made. **Senator Thayn** suggested the RS be held until the changes could be made. **Chairman Patrick** remarked the RS could be held until time certain. **Vice Chairman Agenbroad** and **Senator Guthrie** stated the wording was not as ambiguous as it appeared. **Senators Lakey** and **Souza** questioned the wording and asked to hold the RS for a couple of days. **Mr. Grace** agreed.

MOTION: **Senator Thayn** moved to hold **RS 26449** for time certain. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**. **Senator Guthrie** asked to be recorded as voting nay.

RS 26452

Relating to Underground Facilities Damage Prevention. Patrick Grace, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), addressed the discrepancy in Idaho Code §§ 55-2205(2) and 55-2202(15) related to the marking of underground facilities. The discrepancy concerns the best information available to the owner with reasonable accuracy and an underground facility which has been identified but cannot be located with reasonable accuracy. He noted the proposed legislation will revise and align Idaho Code §§ 55-2205(4), 55-2205(2), and 55-22028(5) to avoid duplicative reporting. The Idaho Damage Protection Board (IDPB) and stakeholders believe underground facility owners are best situated to report damage to underground facilities and excavators are best situated to report downtime due to violations of Idaho Code.

Mr. Grace advised Idaho Code does not have definitions for "hand digging," "soft digging," or "locator." These terms need definition because they will be used in Idaho Code.

Mr. Grace indicated there will be a positive fiscal impact to the IDPB fund created by more efficient reporting of damage to underground facilities and excavator downtime. There will also be a positive fiscal impact to excavators, who will not be required to locate and mark identified, but unlocatable underground facilities with reasonable accuracy.

MOTION:

Senator Lakey moved to send **RS 26452** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 26462

Relating to Public Works Contractors. Patrick Grace, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), commented Idaho Code § 54-1908 requires the Public Works Contractors License Board (PWCLB) to "hold not less than four regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July, and October." He reported many state boards are only required to hold two meetings per year. The IDBS has found it difficult to coordinate four meetings per year within strict timeframes, especially in years in which the PWCLB must hold additional special meetings for statutorily mandated purposes. Idaho Code requires the PWCLB to be composed of eight members. Four members must be present for a quorum.

Mr. Grace reported this legislative proposal will change the number of meetings the PWCLB must hold from four per year to two per year and remove the requirement that the PWCLB meet by the fifteenth day of specific months. This legislative proposal will also change the quorum requirement from four members of the PWCLB to a majority. Changing the quorum requirement will help ensure the actions of the PWCLB are representative of the desires of the entire PWCLB and make it less likely that the votes will result in a tie. **Mr. Grace** disclosed there is no fiscal impact to the General Fund. This legislative proposal will have a positive fiscal impact to the Public Works Contractors License Fund.

MOTION:

Senator Guthrie moved to send **RS 26462** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 26457

Relating to Heating, Ventilation, Air Conditioning (HVAC) Board. **John Nielsen**, HVAC Program Manager, Idaho Division of Building Safety (IDBS), noted Idaho Code §55-5004 currently requires one HVAC Board member to be a HVAC specialty contractor. The IDBS and the HVAC Board have had difficulty filling this position with a qualified, willing specialty contractor. This legislative proposal will require one HVAC Board member to be a representative of the HVAC industry, instead of an HVAC specialty contractor. This change will allow the HVAC Board and IDBS to adequately fill this position, while ensuring it represents the interests of the HVAC industry.

Mr. Nielsen remarked there is no fiscal impact to the General Fund and the HVAC Board. This legislative proposal will change the composition of the HVAC Board, but will not change the costs of conducting HVAC Board meetings or otherwise affect any State funds.

MOTION:

Senator Martin moved to send **RS 26457** to print. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 26458

Relating to Plumbing and Plumbers. **John Nielsen**, Heating, Ventilation, Air-Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (IDBS), stated this statute change would require a plumbing contractor to also hold a journeyman license, which would align with Docket No. 07-0205-01301 (2015).

Mr. Nielsen indicated there is no fiscal impact to the General Fund and the Idaho Plumbing Board fund. This proposal will change administrative requirements associated with obtaining a plumbing contractor license, but will not change the costs of issuing licenses or otherwise affect any State funds.

MOTION:

Senator Ward-Engelking moved to send **RS 26458** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

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

Senator Patrick
Chair

Linda Kambeitz
Secretary



RS – 26439

Proposed Amendment to the Idaho Uniform Securities Act (2004)

Legislative Need - The proposed legislation is needed to adapt the statute to numbering changes in federal statute and to **retain authority** for the Department to maintain certain securities issuer filings and fees that were partially affected by federal preemption.

Federal Changes - The federal Jumpstart Our Business Startups Act (the JOBS Act) was passed in April 2012 and required the U.S. Securities & Exchange Commission (SEC) to write rules and issue studies on capital formation, disclosure, and registration requirements. Elements of the JOBS Act came in to effect in over the following four years.

Crowd Funding – The JOBS Act called for easier access to capital for small businesses through the uses of “crowd funding”. The SEC adopted final rules for crowd funding in October 2015.

Idaho has provided for in-state small issuer crowd funding activities since 2012 and no change is sought in connection with this legislative proposal.

“Regulation A” Issuer Filings - In March 2015, the SEC adopted new rules that updated and expanded Regulation A, an existing exemption from federal registration for smaller issuers of securities. The implementation of the new SEC rules preempted state regulators from any substantive review of Tier 2 issuer offering documents, while retaining state authority to require the filing of offering documents and the collection of filing fees as previously allowed.

The proposed statutory amendment will provide more direct authority for the Department to continue to require and accept those filings and fees associated with federal Regulation A Tier 2 offerings.

Private Placement Changes – Since the states and the SEC share regulatory authority, most states harmonize their statutes and regulations with the federal provisions. Idaho had adapted its law and regulations to recognize federal Regulation D offerings in Idaho by requiring issuer filings that are identical to those made with the SEC.

The proposed legislation is required to adapt the statute to numbering changes in federal laws and regulations.

Who will be affected without this change - Without the benefit of this statutory change, Idaho citizen investors will have less access to information regarding the affected classes of securities issuers and the Department will be unable to vet this class of issuers to identify statutorily disqualified persons attempting to offer and issue securities to Idaho residents. Issuers that may no longer need to make certain notice filings with the Department will effectively save \$50 per issuer filing (approximately 300 per year).

Fiscal impact of legislative idea - If the Department is unable to effect this statutory change, the Department estimates that approximately 300 issuer filings may be affected resulting in an estimated loss of revenue in an amount not greater than \$20,000. Failing to make this change may also deny Idahoans (and the Department) of ready access to information regarding said issuers.

attachment 1
1/17/19

RS26473 and RS26474 Addresses barriers to licensing, inconsistencies of requirements between in-state and out of state persons, provides alternative routes to licensing, allows persons to remain in trade who may not progress through the trade using the "traditional route", returns to the yearly registration of apprentice, allows for registrations to be "revived".

Back story: The need for these RS's were identified during a negotiated rulemaking process between electrical contractors, apprentice, homeowners, educational facilities, apprentice, Idaho legislatures and others interested in the electrical industry. During this process several issues were identified.

1. A desire for an increase in the journeyman to apprentice ratio. (Received opposition mostly by union)
2. A desire for a helper category (Received opposition mostly by union)
3. A desire to take away the requirement to force apprentice who have not received the journeyman license after two years from finishing school to go back to fourth year. (Which is not required of out of state persons with 16000 hours of experience because they did not go to school, opposed mostly by union)
4. A desire to let apprentice move through the program as they choose, which may not be the traditional 4 years and 8000 hours of experience route. (opposed mostly by union)
5. A desire to let apprentice in Idaho test for journeyman after they have received 16000 hours of experience; which is what individuals from out of state are allowed to do. (opposed mostly by union)
6. A desire to do away with the requirement to prove experience in residential, commercial and industrial installations. (opposed mostly by union) this received strong support from Idaho industries whos apprentice do only one type of installation and the residential electrical contractors.
7. A desire to allow licensed persons from out of state who have completed the apprenticeship program or have met the 16,000 hour requirement, but have not taken or passed the Idaho journeyman exam to work. Presently licensed individuals from out of state cannot register as apprentice and cannot work until they have passed the exam.
8. A desire from the electrical apprentice to have a card yearly that states where they are in the program, this allows them to seek out raises and present it to prospective employers to validate experience and education.
9. A desire to easily place persons in the apprentice program based on experience and education.
10. A desire for alternative routes to licensing. (adamantly opposed by union)
11. A desire to recognize that not all person working in the electrical trade want to become Journeyman electrician. Many who are capable of performing installations may not or cannot or will not take and pass the journeyman exam. Some do not want the responsibility, some are afraid the persons they work for may not need additional journeyman and may terminate their employment. There are paralegals and there are

attachment 2 Com + HR
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5. One of the paradigm shifts is acknowledging there are other routes to journeyman than the traditional 4 year and 8000 hours. We already allow individuals from outside the state of Idaho this, we need to allow Idaho citizens this same route.
6. The removal of the requirement to prove residential, commercial and industrial experience acknowledges the fact that many contractors and tradesmen specialize in specific types of installations. Currently we are telling people they may have to quit working for their employer and find a job with someone else to obtain additional experience. This is also next to impossible to enforce. DBS has no way to verify a persons experience. Work verification is done on an "honor" basis and many people are compelled to falsify the verifications in order to test for journeyman. The removal of this requirement comes is highly supported by Idaho's industrial industry whos apprentice only perform industrial installations.
7. We often have licensed individuals from other states move to Idaho, but legally cannot work until they have passed the journeymans exam. They cannot sign up as an apprentice but need time to study for the exam. It took my neighbor 7 months before he was able to pass his exam. In the meantime their options are to not work, work without a license or falsify documentation and sign up as an apprentice, which is also against the current rules. The creation of the "electrical installer license" would allow persons who have completed the apprenticeship program or have 16000 hours of experience a way to work legally.
8. The yearly registration of apprentices came directly from the apprentice themselves. They are asking for a way to track where they are in the program, they want to be able to use this as a bargaining chip when applying for jobs. Furthermore we are discovering that the five year license has become burdensome. Many apprentice do not understand that it is their responsibility to maintain and turn in their work verification hours. When they come to test or ask to re-register they run into many barriers. Many have not been able to verify hours due to contractors passing away, contractors may have closed their doors, some of them have had falling out with contractors and they do not want to help them out. By going to the yearly registration it helps DBS educate the apprentice of requirements and guide them through the program to journeyman. It also allows for verification of education and experience to move to an expanded ratio.
9. When persons from out of state or prior military want to join the program the yearly apprentice progression will allow DBS to easily place them in a specific level of apprenticeship. We send them to a board approved education provider, the provider looks at their transcripts, gives them credit based upon their previous education. They can then come to us, we can look at their education, work experience, register them as a "level 1, 2 or 3 apprentice" then they can approach prospective employers with verified education and experience.
10. This recognizes that there are other routes to journeyman not just the traditional 4 year and 8000 hours. This gives individuals a choice towards journeyman. It also lets people

who desire to stay in the trade the opportunity to do so without fear of being “kicked out” because they choose a non-traditional route.

11. This recognizes that the traditional “apprentice to journeyman” is not for everyone. There are paralegals and there are lawyers, there are physician assistants and there are doctors, why are there not electrical installers and journeyman electricians.
12. This new direction or paradigm shift was a direct result of Governors Little executive order to remove barriers of licensing. DBS identified these barriers, considered the desires of the industry and working with industry through negotiated rulemaking was able to get this new direction approved by the electrical board.
13. By allowing Idaho electrical tradesman to take the exam after 16000 hours (as we allow those from out of state) we can immediately increase the number of persons who are eligible to test for the journeyman license.

Yes, there was some opposition (mostly from the union) to this new direction, but frankly, they were outvoted by others in the industry during the negotiated rulemaking process. In order to implement this new direction it was recognized that we had to create the “electrical installer” license and to return to the “yearly” registration. The industry is asking for these RS’s to become a bill so DBS can present the already negotiated rules to the legislature next year. We are trying to make sure the cart is not in front of the horse.

- lawyers, there are physician assistants and there are doctors, why are there not electrical installers and journeyman electricians. (not everyone wanted to recognize this)
12. A desire to remove barriers allowing persons to work in the trade (Governor Little and Legislators)(adamantly opposed by union)
 13. The need for more journeyman electricians in the industry.

RS26473 and RS26474 are a direct result of negotiated rulemaking results that answers all of the concerns, desires and barriers listed above in the following way.

1. The majority of persons were in the collaborative were in favor of allowing an increase in ratio for journeyman and apprentice for persons who have over 4000 hours of experience and two years or more of trade specific education. Those involved in the 3rd meeting agreed this would be for specific types of residential installations only. When it went to the board for approval the union opposed it and the board would not make a motion to approve it so it died.
2. This solves the need for a “helper” category by allowing persons to stay in the trade and progress at their own rate. The suggestion for a “helper” category comes from the small “one man shops” that may have signed up family members as apprentice to help them every once in a while. The issue is that if they do not have a certain amount of hours and education at the end of the registration, they cannot register again with DBS.
3. I do not know of any other profession that requires a person to go back to school if they have not received a trade license in a set amount of time. This would be tantamount to requiring a graduate of law school to go back to school because he did not take the BAR in two years from the time he graduated. Is it the states responsibility to require a person obtain a specific license in a specified time and if they don’t require them to repeat their education. This is also an inconsistency, because persons who have met the requirement to test for licensing with 16000 hours are not required to go back to school. If we get these RS approved we will bring the results from negotiated rulemaking that has taken place to the legislature next year to repeal this rule.
4. With going back to the yearly registration, the industry is proposing a paradigm shift in the way apprentice would be allowed to progress through the program. An individual would register as an apprentice and each year they would register, submit hours and education and be moved into the apprentice level appropriate to their experience and education. Those who have not completed school and education would take an 8 hour class on electrical safety and be registered as an apprentice, but remain at the level appropriate with their experience and education. 54-1007 which we are doing away with, but still recognizes the importance of obtaining at least some training in electrical safety. No one would be “kicked out” or “penalized for not moving through the program in a specific period of time.

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 22, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26467</u>	Relating to Plats and Vacations and Recording of Surveys	Keith Simila, Executive Director, Board of Prof. Engineers and Land Surveyors
MINUTES APPROVAL	Minutes of January 8, 2019 Minutes of January 10, 2019	Senator Agenbroad Senator Martin
DOCKET NO.:		
<u>18-0106-1801</u>	Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children	Dean L. Cameron, Director, Idaho Department of Insurance
<u>18-0123-1801</u>	Rules Pertaining to Idaho Acquisitions of Control and Insurance Holding Company Systems	Dean L. Cameron
<u>18-0124-1801</u>	Advertisement of Disability (Accident and Sickness) Insurance	Dean L. Cameron
<u>18-0149-1801</u>	Fire Protection Sprinkler Contractors	Dean L. Cameron
<u>18-0154-1801</u>	Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act	Dean L. Cameron
<u>18-0162-1801</u>	Annual Financial Reporting	Dean L. Cameron
<u>59-0103-1801</u>	PERSI Contribution Rules	Don Drum, Executive Director, PERSI
<u>59-0105-1801</u>	PERSI Separation from Service Rules	Don Drum
<u>59-0106-1801</u>	PERSI Retirement Rules	Don Drum
<u>59-0106-1802</u>	PERSI Retirement Rules	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 Thayn
Vice Chairman Agenbroad	Sen Souza
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Guthrie	

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 22, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

RS 26467 **Relating to Plats and Vacations and Recording of Surveys. Thomas Judge**, Deputy Director, Idaho Board of Professional Engineers and Land Surveyors (IBPELS), presented for Keith Simila, Executive Director of IBPELS, reported the purpose of the survey narrative is to offer a rational summary of the evidence accepted and rejected to ensure evidence is not missed or misinterpreted. The survey narrative will serve to perpetuate a record of the evidence considered and the principles applied in performing the survey. This will aid the public and future surveyors by making the record more clear and complete.

Mr. Judge advised there is no fiscal impact to the General Fund or the IBPELS dedicated fund because the amendment requires surveyors to document information already obtained on the survey documents recorded in county courthouses.

DISCUSSION: **Chairman Patrick** and **Mr. Judge** discussed the record of evidence in performing a survey and whether the record was mandatory. **Senator Guthrie** asked if there was a cost for these changes. **Mr. Judge** remarked costs should be reduced and information would be centralized.

MOTION: **Senator Guthrie** moved to send **RS 26467** to print. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Vice Chairman Agenbroad** moved to approve the Minutes of January 8, 2019. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

Senator Martin moved to approve the Minutes of January 10, 2019. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Agenbroad to introduce the presenters for the rules.

**DOCKET NO.
18-0106-1801**

Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children. **Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), pointed out the current pending rule applies to self-funded health plans subject to registration with the IDOI, as well as health insurers, and addresses coverage for congenital anomalies. There is some language in the rule that refers to premiums that denotes health insurance only; this causes confusion for self-funded plans since the term used for payments by members is "contribution" and not "premium." This rulemaking modifies language in Section 012 to include contributions in addition to premiums.

Mr. Cameron specified there is no fiscal impact to the General Fund. There is no incorporation by reference. Negotiated rulemaking was conducted.

DISCUSSION:

Senator Souza inquired if parents were notified of coverage prior to the birth or adoption of a child. **Director Cameron** stated the employer or the insurance agent usually notified the parent.

MOTION :

Senator Souza moved to approve **Docket No. 18-0106-1801**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
18-0123-1801**

Rules Pertaining to Idaho Acquisitions of Control and Insurance Holding Company Systems. **Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), stated this pending rulemaking revises language in Subsection 027.01, regarding extraordinary dividends, to be consistent with changes made to Idaho Code § 41-3812 following enactment of H 454 in 2018. He explained in the past, the code used "lesser of" language in determining allowable dividend thresholds. Last year, the language was updated to "greater than" and slightly different thresholds. By making these changes, Idaho became consistent with neighboring states.

Mr. Cameron affirmed there is no fiscal impact to the General Fund. There is no incorporation by reference. Negotiated rulemaking was conducted.

MOTION:

Senator Lakey moved to approve **Docket No. 18-0123-1801**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
18-0124-1801**

Advertisement of Disability (Accident and Sickness) Insurance. **Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), reported Section 025 of the pending rule states that the IDOI Director may require the filing of "direct response" advertising regarding disability accident and sickness policies. Some carriers, typically those seeking to sell limited benefit plans, object to filing advertising materials. This results in the IDOI sending a separate request for this material. The IDOI believes that it is appropriate to review any advertising material, and this change streamlines that communication and process. This rulemaking modifies the rule to eliminate the reference to "direct response" advertising.

Mr. Cameron advised there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact to the General Fund. There is no incorporation by reference. Negotiated rulemaking was conducted.

DISCUSSION: **Senator Burgoyne** remarked he observed this rule protects a person and the insurance company. **Senator Souza** asked what the consequence would be if the IDOI reviewed proposed advertising and did not like it. **Mr. Cameron** stated the insurance company would have to change the advertising.

Vice Chairman Agenbroad inquired as to the timeframe for filing a request for approval of advertising. **Mr. Cameron** said some carriers will file advertising when they file a new product with the IDOI. Others may file the product and not file any advertising until later. The IDOI would still review the advertising with a turnaround of 30 days or less.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 18-0124-1801**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0149-1801 **Fire Protection Sprinkler Contractors. Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), indicated the pending rule revises language in Idaho Administrative Procedure Act (IDAPA) 18.01.49 to eliminate Subsection 011.07, in regard to providing for an advisory board that never formed. The pending rule also corrects a reference to a National Fire Protection Association (NFPA) standard in Subsection 020.01, and eliminates language in Subsection 021.06 concerning fees that tie the fee amount to 1 percent of the bid amount. Language imposing fees in the amount of \$2 per sprinkler head payable to the local fire department or the State Fire Marshal will be retained, including the retention of the maximum and minimum fees. The rulemaking also clarifies in Subsection 021.06 that the fee applies to each fire protection sprinkler system, which is defined in Subsection 004.01 of this rule.

Mr. Cameron reported there are no changes to the pending rule and it is being adopted as originally proposed. There is no impact to the General Fund. There is no incorporation by reference.

DISCUSSION: **Senator Lakey** thanked Director Cameron for his efforts in reducing costs and regulations. **Senator Thayne** asked why the IDOI was examining fire sprinkler contractors, since the fire marshal could do the same thing. **Mr. Cameron** indicated the fire marshal's office was located at the IDOI and they were requesting this change.

MOTION: **Senator Lakey** moved to approve **Docket No. 18-0149-1801**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0154-1801 **Rule to Implement the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act. Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), related this rulemaking seeks to make updates to the current rule consistent with NAIC Model Regulation 651 to add definitions for the year 2020 Standardized Medicare Supplement Benefit Plans and add more detailed sections with respect to such plans. **Mr. Cameron** explained the Medicare Access and Children's Health Insurance Program (CHIP) Reauthorization Act of 2015 (MACRA) prohibits the first dollar of Part B coverage on Plans C and F to individuals "newly eligible" starting January 1, 2020. "Newly eligible" is defined as anyone aged 65 on or after January 1, 2020, or anyone eligible for Medicare due to: age, disability, or end-stage renal disease, on or after January 1, 2020. **Mr. Cameron** explained those already on Plans C and F can stay with the plans for life. These are the only plans that will cover Part B deductible. Part B will continue to be covered for those already enrolled in these plans. After year 2020 those newly eligible will share costs of Part B deductible.

Mr. Cameron cited what separates Plans C and F, and D and G, and indicated coverage under Part B deductible under C and F is \$183 (2018). All other

benefits are the same for Plans D and G. Additions include definitions for year 2020 Standardized Medicare Supplement Benefit Plans and more detailed sections to these plans.

Mr. Cameron outlined other changes. Plans C and F with F High-Deductible will no longer be available to individuals newly eligible for Medicare after January 1, 2020. Plans D and G will replace C and F for those individuals newly eligible for Medicare, with guaranteed issue right. There is an addition of the new G High-Deductible plan option. Appendices have been changed to update tables with changes in plans and includes outlines of coverage and specific plan designs. These are included in the outlines of coverage for Medicare supplement plans beginning January 1, 2020. The new benefits summary chart will be posted on the IDOI website. **Mr. Cameron** cited there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted.

Mr. Cameron explained the materials cited are incorporated into the current rule; however, a correction is made to the reference, namely, to the NAIC Model Regulation 651, rather than the NAIC Model Act (650). Additionally, there are some substantive changes to the outlines of coverage and plan designs reflecting options and eligibility for Medicare supplement plans issued starting on January 1, 2020 (Attachment 1).

MOTION:

Senator Martin moved to approve **Docket No. 18-0154-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
18-0162-1801**

Annual Financial Reporting. **Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), commented this pending rule updates the Idaho Administrative Procedure Act (IDAPA) 18.01.62 to include National Association of Insurance Commissioners (NAIC) Annual Financial Reporting Model Regulation 205 provisions support the requirement of an independent internal audit function for large insurance companies or insurance holding company groups. This requirement applies to insurance companies with over \$500 million in annual premiums written (or \$1 billion if a member of a group). This pending rulemaking requires a standard best corporate governance practice to assist company management and the boards of large insurers by implementing sound business practices to maintain solvency and honor all policyholder obligations.

Mr. Cameron outlined the benefits of accreditation developed by the NAIC. He indicated consumers are assured that regardless of where the company is domiciled, it has been and will be appropriately examined and regulated in a similar manner. Insurance departments in other states would know that an Idaho insurance company wanting to sell their insurance products in their state has been properly regulated and held to appropriate similar standards. This helps Idaho insurance companies be successful in other states. Idaho insurance companies would not be required to be re-examined or regulated by every state for which they are selling products. This saves insurance carrier revenue, which saves consumers money. By maintaining accreditation, insurance companies will remain in Idaho. If Idaho lost accreditation, Idaho insurance companies would likely re-domicile or relocate to an accredited state. This would be a significant economic impact to the State's economy and adversely impact consumers.

Mr. Cameron stated there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION:

Chairman Patrick moved to approve **Docket No. 18-0162-1801**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0103-1801**

Public Employee Retirement System of Idaho (PERSI) Contribution Rules. **Don Drum**, Executive Director, PERSI, remarked this pending rule applies to the PERSI Employer General Member and Class II Contribution Rate, the PERSI Employee General Member and Class II contribution rates, and the Firefighter Retirement Fund Employer Rate. The actuarial valuation for the PERSI general member contribution rate period ending June 30, 2016 reflected that the amortization period was above 25 years. The PERSI Board acted to adopt a rate increase to bring the amortization period to 25 years or less as required by Idaho Code § 59-1322. This rate increase was scheduled to go into effect July 1, 2018. The actuarial valuation for the rate period ending June 30, 2017 reflected that the amortization period was less than 25 years and the PERSI Board delayed the rate increase for one year. This rule reflects the delayed increase and acts to impose the rate increase to go into effect July 1, 2019.

Mr. Drum explained a temporary rule was adopted under this docket effective December 5, 2017 and published in the January 3, 2018 Idaho Administrative Bulletin. This rule is now being promulgated as proposed rulemaking. The employee contribution rates will increase by 0.62 percent of salaries, beginning July 1, 2019. This will affect the General Fund to the extent the contributions required of the employer (State of Idaho and political subdivisions, and government entities electing to participate in the system) are made from General Fund dollars.

Mr. Drum stated negotiated rulemaking was not conducted because it is not feasible as it would be inconsistent with the PERSI Board's need to bring the amortization rate to 25 years or less and with the PERSI Board's exclusive fiduciary responsibility for plan operations. There was no incorporation by reference.

DISCUSSION:

Senator Guthrie asked for clarification of the 25-year amortization policy and stated PERSI was not there yet. **Mr. Drum** remarked the strict letter of the law requirement is that the PERSI Board must take action. The PERSI Board has the opportunity to look at rates and because of the market volatility, the PERSI Board was not sure if the rates would go over the 25-year amortization rate.

Senator Souza queried if the PERSI Board would decrease the contribution rate if the market improved on a consistent basis within a year. **Mr. Drum** acknowledged the PERSI Board could adjust the contribution rates, but he could not speak for the PERSI Board. He remarked this was an option the PERSI Board had as long as a rate reduction would not push PERSI over the 25-year amortization period. **Senator Thayn** asked about the increase in contributions and if the increase was included in the proposed budget. **Mr. Drum** reported the amounts were included in the Governor's budget.

MOTION:

Senator Burgoyne moved to approve **Docket No. 59-0103-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0105-1801**

Public Employee Retirement System of Idaho (PERSI) Separation from Service Rules. **Don Drum**, Executive Director, PERSI, remarked that when a member is required to take a minimum distribution, but fails to complete a retirement application and choose a retirement option, the retirement option will default to regular retirement benefits if single or Option 1 if married. Also, when an inactive member defers retirement beyond service retirement age, the first retirement payment will be a lump sum that includes payment for the months of service beyond service retirement age.

Mr. Drum emphasized there is no impact to the General Fund. Negotiated rulemaking was not conducted because it is not feasible as it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations. There was no incorporation by reference.

DISCUSSION:

Senator Burgoyne and **Mr. Drum** discussed the selection of retirement options, the requirement to take a minimum distribution, and the completion or non-completion of a retirement application. **Mr. Drum** pointed out the PERSI Board did not want to penalize a spouse if a retirement application had not been completed. **Senator Souza** asked for clarification with the rule change. For example, if a member passed away and had not created an option for the spouse for the full amount of retirement, would the surviving spouse receive the whole amount of retirement as if the deceased spouse had selected that option? **Senator Thayn** asked for clarification on when a spouse dies, if the benefit would be in a lump sum or a continuation of a monthly payment until the surviving spouse passed away. **Mr. Drum** explained when a member has not filled out a retirement application and has not yet received a benefit, PERSI would fill out the application and the surviving spouse would receive a monthly benefit.

Senator Ward-Engelking remarked if an option was already set up and a benefit had been disbursed, that option could not be changed. **Mr. Drum** indicated it would be assumed the deceased person had not filed for retirement.

Senator Burgoyne questioned if there was any mechanism for a member or spouse to have a three-month option to change the selection of the retirement plan. **Mr. Drum** stated he was not positive whether or not federal tax law prohibits changing an option. **Mr. Drum** remarked a required minimal distribution is required by the federal government.

MOTION:

Senator Souza moved to approve **Docket No. 59-0105-1801**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.:
59-0106-1801**

Public Employee Retirement System of Idaho (PERSI) Retirement Rules. **Don Drum**, Executive Director, PERSI, explained the portion of this rule which has been deleted regarding when a member fails to file a completed retirement application and select a retirement option. The deleted portion will be addressed in Idaho Administrative Procedure Act (IDAPA) 59.01.05.126.

Mr. Drum acknowledged there is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because it is not feasible as it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations. There was no incorporation by reference.

DISCUSSION:

Senator Thayn asked if this rule affected cash flow of the PERSI fund positively or negatively. **Mr. Drum** stated the cash flow should be relatively the same.

MOTION:

Senator Thayn moved to approve **Docket No. 59-0106-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0106-1802**

Public Employee Retirement System of Idaho (PERSI) Retirement Rules. **Don Drum**, Executive Director, PERSI, advised Idaho Administrative Procedure (IDAPA) 59.01.06.576 would be amended to require an employer who is not eligible to participate in other statutorily created sick leave pools, and wants to voluntarily participate in the unused sick leave pool established by the State, to annually update and submit an application for participation in the subdivision unused sick leave fund. A new section IDAPA 59.01.06.579, would be added to terminate employers failing to meet the participation or funding requirements. It also allows an employer to withdraw. Any terminated employer or withdrawn employer would not be allowed to rejoin.

Mr. Drum related there is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because it is not feasible as it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations. There was no incorporation by reference.

DISCUSSION:

A lengthy discussion occurred among **Senators Martin, Burgoyne, Guthrie and Souza** relating to the sick leave fund. They discussed why an entity would want to participate in the sick leave fund, if employers were statutorily entitled to join the fund, annual applications and termination rules, the investment of unused sick leave monies, Medicare subsidies, and financial penalties. **Mr. Drum** outlined the sick leave policy or plan, discussed prospective retirees who may want to use this policy, and the requirements of the fund. He explained there are a few entities who are applying to be admitted to the sick leave fund pool. New participants are not required by law to participate, but can withdraw from the fund if they choose. He said the purpose of the language is to allow an appeal to the PERSI Board if the participant does not agree with the actions of the PERSI Board.

Mr. Drum explained state agencies and school districts make a contribution towards sick leave with each payroll. That contribution is not earmarked to specific members. When a member retires, PERSI is notified and the unused sick leave is put into an account in the retiree's name. Those monies can be used to pay for insurance premiums, including Medicare, and are sponsored and maintained by the employer until the money is depleted. **Mr. Drum** remarked school districts and state agencies cannot withdraw from the sick leave fund.

Senator Guthrie stated he did not understand how an employer is vested if they could be terminated. **Cheryl George**, Idaho Deputy Attorney General, explained the sick leave pool applies only to those entities that are not mandatorily required to participate in this fund.

MOTION:

Senator Martin moved to approve **Docket No. 59-0106-1802**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Guthrie** asked to be recorded as voting nay.

**PASSED THE
GAVEL:**

Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.

ADJOURNED:

There being no further business, Chairman Patrick adjourned the meeting at 2:48 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

State of Idaho
DEPARTMENT OF INSURANCE

BRAD LITTLE
Governor

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DEAN L. CAMERON
Director

M E M O R A N D U M

DATE: January 17, 2019

TO: Chairman, Senate Commerce and Human Resources Committee

FROM: Director Dean Cameron, Idaho Department of Insurance

SUBJECT: Pending Rulemaking – Docket No. 18-0154-1801- Incorporation by Reference Synopsis

In compliance with Section 67-5223(4), Idaho Code, and pursuant to your request, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that will be incorporated by reference under this pending rulemaking.

In 2015, Congress passed the Medicare Access and CHIP Reauthorization Act (MACRA). MACRA makes changes to Medigap policies that cover the Part B deductibles of “newly eligible” Medicare Beneficiaries on or after January 1, 2020. The National Association of Insurance Commissioners (NAIC) developed a model regulation including plan charts to comply with MACRA and issued guidance to states that want to retain regulatory authority over Medicare Supplement products. Failure to adopt the current law could result in a state losing regulatory authority over these products. Authority to regulate these products would revert back to the Federal Government.

IDAPA 18.01.54 currently incorporates by reference Appendixes A, B, and C and all other outlines of coverage and specific plan designs of the NAIC Model Regulation implementing the Medicare supplement insurance minimum standards, July 1, 2009. The Model Regulation is available from the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662 and from the Idaho Department of Insurance website <https://doi.idaho.gov/displaypdf?ID=18.01.54&cat=Laws>. The Appendixes did not change but to update the tables; the outlines did change. The outlines of coverage and plan designs that have changed have a new benefit summary chart showing Medicare supplement plans sold on or after January 1, 2020, and other particulars including:

- Plans C/F, including F high deductible option, will not be available to the newly eligible starting January 1, 2020
- Plans D/G will replace C/F for those with guaranteed issue right (these plans aren't new)
- Addition of the new G high deductible plan option

Dean L. Cameron
January 22, 2019
Attachment 1

The new benefit summary chart can be found on the NAIC website Products page under Volume IV, Medicare Supplement Insurance, Model Regulation 651 (starting on page 651-43) or by clicking <https://www.naic.org/store/free/MDL-651.pdf#page=43>

I have included copies of: 1) the new outline of coverage which summarizes the benefits for the respective plans for plans sold on or after January 1, 2020, and 2) for comparison, the current outline of coverage summarizing the benefits currently in effect as part of the current rule.

PREMIUM INFORMATION [Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult *Medicare and You* for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 9.1D of this regulation.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

Benefit Chart of Medicare Supplement Plans Sold on or after January 1, 2020

This chart shows the benefits included in each of the standard Medicare supplement plans. Some plans may not be available. Only applicants' first eligible for Medicare before 2020 may purchase Plans C, F, and high deductible F.

NW

Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act

Benefit Chart of Medicare Supplement Plans Sold on or After June 1, 2010

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in your state.

Basic Benefits:

- **Hospitalization** --Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
- **Medical Expenses** --Part B coinsurance (generally 20% of Medicare-approved expenses) or co-payments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or co-payments.
- **Blood** --First three pints of blood each year.
- **Hospice** -- Part A coinsurance

A	B	C	D	F	F*	G	K	L	M	N
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance	Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%	Basic, including 100% Part-B coinsurance	Basic, including 100% Part B coinsurance, except up to \$20 copayment for office visit, and up to \$50 copayment for ER			
		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance	50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible	50% Part A Deductible	75% Part A Deductible	50% Part A Deductible	Part A Deductible
		Part B Deductible		Part B Deductible						
				Part B Excess (100%)		Part B Excess (100%)				
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency			Foreign Travel Emergency	Foreign Travel Emergency
							Out-of-pocket limit \$[5240]; paid at 100% after limit reached	Out-of-pocket limit \$[2620]; paid at 100% after limit reached		

*Plan F also has an option called a high deductible plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[2240] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed \$[2240]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

Model Regulation to Implement the NAIC Medicare Supplement
Insurance Minimum Standards Model Act

Note: A ✓ means 100% of the benefit is paid.

Benefits	Plans Available to All Applicants								Medicare first eligible before 2020 only	
	A	B	D	G ¹	K	L	M	N	C	F ¹
Medicare Part A coinsurance and hospital coverage (up to an additional 365 days after Medicare benefits are used up)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Medicare Part B coinsurance or Copayment	✓	✓	✓	✓	50%	75%	✓	✓ copays apply ³	✓	✓
Blood (first three pints)	✓	✓	✓	✓	50%	75%	✓	✓	✓	✓
Part A hospice care coinsurance or copayment	✓	✓	✓	✓	50%	75%	✓	✓	✓	✓
Skilled nursing facility coinsurance			✓	✓	50%	75%	✓	✓	✓	✓
Medicare Part A deductible		✓	✓	✓	50%	75%	50%	✓	✓	✓
Medicare Part B deductible									✓	✓
Medicare Part B excess charges				✓						✓
Foreign travel emergency (up to plan limits)			✓	✓			✓	✓	✓	✓
Out-of-pocket limit in [2018] ²					[\$5240] ²	[\$2620] ²				

¹ Plans F and G also have a high deductible option which require first paying a plan deductible of [\$2240] before the plan begins to pay. Once the plan deductible is met, the plan pays 100% of covered services for the rest of the calendar year. High deductible plan G does not cover the Medicare Part B deductible. However, high deductible plans F and G count your payment of the Medicare Part B deductible toward meeting the plan deductible.

² Plans K and L pay 100% of covered services for the rest of the calendar year once you meet the out-of-pocket yearly limit.

³ Plan N pays 100% of the Part B coinsurance, except for a co-payment of up to \$20 for some office visits and up to a \$50 co-payment for emergency room visits that do not result in an inpatient admission.

Benefit Chart of Medicare Supplement Plans Sold for Effective Dates on or After June 1, 2010

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in your state.

Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]

Basic Benefits:

- **Hospitalization** -Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
- **Medical Expenses** -Part B coinsurance (generally 20% of Medicare-approved expenses) or co-payments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or co-payments.
- **Blood** -First three pints of blood each year.
- **Hospice** - Part A coinsurance

A	B	C	D	F	F*	G	K	L	M	N
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance	Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance, except up to \$20 copayment for office visit, and up to \$50 copayment for ER			
		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance		Skilled Nursing Facility Coinsurance	50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible	50% Part A Deductible	75% Part A Deductible	50% Part A Deductible	Part A Deductible
		Part B Deductible		Part B Deductible						
				Part B Excess (100%)		Part B Excess (100%)				
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency			Foreign Travel Emergency	Foreign Travel Emergency
							Out-of-pocket limit \$[4620]; paid at 100% after limit reached	Out-of-pocket limit \$[2310]; paid at 100% after limit reached		

*Plan F also has an option called a high deductible plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year [\$2000] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed [\$2000]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

AMENDED AGENDA #2
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 24, 2019

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION	Your Health Idaho	Patrick Kelly, Executive Director, Your Health Idaho
MINUTES APPROVAL	Minutes of January 15, 2019	Senator Guthrie
<u>RS26544C1</u>	Relating to Workers' Compensation First Responders - PTSD	Representative Matt Erpelding, Senator Chuck Winder
DOCKET NO. <u>18-0130-1801</u>	Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule	Dean L. Cameron, Director, Idaho Department of Insurance
<u>18-0170-1801</u>	Rules Governing Small Employer Health Insurance Availability Act Plan Design	Dean L. 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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
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 24, 2019
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.
PRESENTATION: **Your Health Idaho (YHI). Patrick Kelly**, Executive Director, YHI, reported the significant accomplishments, enrollment numbers, planning for 2019, and policy changes for YHI. He stated the mission was to maintain maximum control of Idaho's health insurance marketplace at minimal cost to its citizens.

Mr. Kelly outlined the significant accomplishments in 2018. Namely, more choices than ever before were offered to Idahoans on the YHI Exchange, with 299 plans from seven carriers. There was a reinforced commitment to a flawless customer experience through technology enhancements and website redesign. The Net Promoter Score (NPS) was implemented to measure customer satisfaction. Relationships were strengthened with a statewide network of Consumer Connectors. **Mr. Kelly** stated they promoted the value of having coverage and the savings available through the YHI Exchange. Idahoans have continually saved money by maintaining an assessment fee significantly lower than the federal marketplace. Conservative fiscal principles have been maintained.

Mr. Kelly highlighted enrollment charts by type, gender, and age. A copy of the entire report can be found at the Your Health Idaho website.

Mr. Kelly outlined the plans for 2019. In preparation for 2019, YHI hosted an open enrollment summit in April, implemented technology enhancements to address the most common support requests, added prescription drug and provider search capabilities, and refreshed the website with streamlined information, including mobile optimization. In addition, YHI worked with the Idaho Department of Insurance to offer 293 plans in 2019. The hiring of seasonal employees began in August, giving ample time for training. More than 900 agents, brokers, and enrollment counselors were certified. **Mr. Kelly** indicated outreach efforts have been expanded with events across the State. Additionally, strong media coverage across the State promoted 2019 plan choice and enrollment deadlines. Paid advertising spanned a variety of platforms with a targeted approach.

Mr. Kelly reported the results of planning and preparation. The individual mandate was reduced to \$0, but YHI saw little impact to enrollments. Over 103,000 Idahoans enrolled for 2019 with an 83 percent renewal rate. Time spent

on the website decreased by half. Customer support tickets saw a significant reduction. NPS scores stayed well above industry standards.

Mr. Kelly explained Medicaid expansion was passed with Proposition 2 on November 6, 2018. Funding is pending in this legislative session with an implementation date estimated at no earlier than January 1, 2020. Under traditional Medicaid expansion those at the 100 to 138 percent Federal Poverty Level (FPL) move from the YHI Exchange to Medicaid. Approximately 20 percent of YHI enrollments are within this income range. YHI is actively working to increase enrollment through targeted messaging to key groups.

DISCUSSION:

Chairman Patrick commented the decision the State had to make a few years ago was very successful in spite of all of the controversy.

Senator Lakey and **Mr. Kelly** discussed how gaps in service were handled. The NPS helped identify and correct problems when account linking was corrected.

Senator Martin, asked if 20 percent transferred to Medicaid, would there be an equal savings or would YHI have to downsize. **Mr. Kelly** remarked there would be no cost structure change and no downsizing, as YHI has already planned for the transfer. **Vice Chairman Agenbroad** referred to Medicaid expansion and the effects the new law would have on the YHI Exchange and discussed the ramifications with **Mr. Kelly**. **Mr. Kelly** stated YHI would work closely with the Idaho Department of Health and Welfare (IDHW) for a seamless change. **Senator Guthrie** stated that since 20 percent of YHI customers will migrate into Medicaid expansion, would there be a loss in premium tax or would any costs change. **Mr. Kelly** explained when individuals move to Medicaid, premium dollars move off of the YHI Exchange. Those are federal dollars for federal tax credit and the credit can no longer be claimed on income tax returns. **Senator Souza** expressed a concern about the 20 percent of customers who would be moving off of the YHI Exchange. She queried what the average subsidy was and how much out-of-pocket expense there was for being on the YHI Exchange. **Mr. Kelly** noted the average premium in 2018 was \$500 per month and the tax credit was \$400 per month. The tax credit could be higher in some cases and the premium lower. **Senator Souza** asked about how much in premium money would be gone from the YHI Exchange with Medicaid expansion. **Mr. Kelly** stated the loss could be in the range of \$500 million in premiums for that particular population; however, in revenue dollars the loss would be about \$2 million. He reported those on Medicaid could also enroll in a health plan, but would no longer be eligible for a tax credit. However, that would be unlikely due to being at the lower end of the income level and unable to afford the premiums.

**MINUTES
APPROVAL:**

RS 26544C1

Senator Guthrie moved to approve the Minutes of January 15, 2019. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Relating to Workers' Compensation First Responders - Post Traumatic Stress Disorder (PTSD). **Representative Mat Erpelding** reported this Routing Slip (RS) identifies PTSD, otherwise known as Post Traumatic Stress Injury (PTSI), as an occupational injury that affects Idaho's first responders. Under current law, a mental injury must be accompanied by a physical injury. **Representative Erpelding** pointed out this changes current statute that if a first responder has "clear and convincing" evidence of a physiological injury, the treatment would be handled through workers' compensation. The provision of this act shall be null, void, and of no force and effect on and after July 1, 2023.

Representative Erpelding explained the National Council on Compensation Insurance (NCCI) expects that the enactment of this legislation will increase costs of workers' compensation rates that local municipalities pay as claims come

in. However, the extent of an increase is difficult to estimate due to significant data limitations. Workers' compensation rates are averaged over a three-year period of time. There is no impact to the General Fund.

DISCUSSION: **Senator Lakey** voiced his support for the RS. **Senator Thayn** inquired as to the treatment for PTSD and PTSI. **Representative Erpelding** explained the goal was to keep the employee in the work environment. He explained there would also be 15 to 20 therapeutic visits outside of the workplace.

MOTION: **Senator Ward-Engelking** moved to send **RS 26544C1** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Agenbroad to hear the rules.

DOCKET NO. 18-0130-1801 **Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule.** **Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), reported this rulemaking follows House Concurrent Resolution (HCR) 45 (2018) and some meetings that have already occurred with the IDOI. Health insurers have not covered hearing aids for children based on exclusionary language in this rule addressing the individual market. This rulemaking seeks to revise language related to exclusions for hearing aids so that hearing loss interventions will be covered with certain parameters.

There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Senator Martin** asked if a child or parent could decide after ten visits to stop coming for therapy. **Mr. Cameron** stated a carrier would be required to provide not less than 45 visits, but a parent could opt out if the therapist and the parent felt the child did not need further treatment. Most parents choose to stay in the program.

TESTIMONY: The following testified in support of this docket: **Lesa Coleman**, Idaho Hands and Voices; **Kat Ross**, Executive Director of Idaho Hands and Voices; **Andrea Amestoy**, Registered Nurse; **Gretchen Fors**, parent, and daughter, **Greta Fors**; **Ray Lockary**; **Steven Snow**, Executive Director of the Idaho Council for the Deaf and Hard of Hearing; **Brian Darcy**, Idaho Bureau of Educational Services for the Deaf and Blind; **Jessica Stidahennen**, St. Luke's Pediatric Audiology; and **Representative Rubel**, who thanked all who worked collaboratively on this legislation.

DISCUSSION: **Senator Souza** and **Mr. Snow** discussed identifying hearing loss at an earlier age due to the availability of better resources.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 18-0130-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0170-1801 **Rules Governing Small Employer Health Insurance Availability Act Plan Design.** **Dean L. Cameron**, Director, Idaho Department of Insurance (IDOI), stated this rulemaking follows House Concurrent Resolution (HCR) 45 (2018) and some meetings that have already occurred with the IDOI. Health insurers have not covered hearing aids for children based on exclusionary language in this rule addressing the small group market. Public meetings were held July 23 and September 6, 2018. This rulemaking seeks to revise language related to exclusions for hearing aids so that hearing loss interventions will be covered within certain parameters. (This rule is a companion to that affecting the individual insurance market in Idaho Administrative Procedure Act (IDAPA) 18.01.30).

There is no impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION: **Senator Thayn** moved to approve **Docket No. 18-0170-1801**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

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

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

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, January 29, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	January 17, 2019	Senator Lakey
<u>RS26575</u>	Relating to the Employment of Firefighters	Senator Burgoyne
<u>RS26630</u>	Relating to Electrical Contractors and Journeymen	Colby Cameron, Sullivan and Reberger
<u>RS26449C1</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace, Regional Manager, Idaho Division of Building Safety
<u>RS26464C4</u>	Relating to Engineers and Surveyors	Tom Judge, Deputy Director, Surveying, Idaho Prof. Engineers & Land Surveyors
DOCKET NO. <u>10-0102-1801</u>	Rules of Professional Responsibility	Tom Judge
<u>24-2801-1802</u>	Rules of the Barber and Cosmetology Services Licensing Board (New Chapter)	Joan Callahan, Administrative Attorney, Idaho Bureau of Occupational Licenses
<u>24-1801-1801</u>	Rules of the Real Estate Appraiser Board	Scott Calhoun, Real Estate Appraiser Board Member
<u>24-1801-1802</u>	Rules of the Real Estate Appraiser Board	Scott Calhoun
<u>24-0101-1801</u>	Rules of the Board of Architectural Examiners	Roger Hales, Administrative Attorney, Idaho Bureau of Occupational Licenses
<u>24-0801-1801</u>	Rules of the State Board of Morticians	Roger Hales
<u>24-2501-1801</u>	Rules of the Idaho Driving Business Licensure Board	Roger Hales
<u>49-0101-1801</u>	Rules of Procedure of Idaho Certified Shorthand Reporters Board	Roger Hales
<u>10-0101-1801</u>	Rules of Procedure	Keith Simila, Executive Director, Idaho Prof. Engineers & Land Surveyors

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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
Sen Ward-Engelking
Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 29, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayne, Souza, 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 Lakey** moved to approve the Minutes of January 17, 2019. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 26575 **Relating to Employment of Firefighters.** **Senator Burgoyne** stated this proposed legislation amends Idaho Code §§ 44-1806 and 44-1807 pertaining to firefighter collective bargaining. Under existing law, in the event that an impasse between the representative(s) of the employer and the firefighters is reached, the parties select neutral fact-finders. The proposed amendment affects how fact-finders are selected; institutes a process for how a final contract is produced using previously negotiated articles in conjunction with the fact-finders' recommendation; and makes the fact-finders' (Fact-Finding Commission) decision final and binding upon both parties, rather than merely advisory.

MOTION: **Senator Martin** moved to send **RS 26575** to print. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senators Martin** and **Lakey** remarked they had several questions. **Senator Burgoyne** asserted he would confer with both Senators to answer any questions.

VOICE VOTE: The motion carried by **voice vote**.

RS 26630 **Relating to Electrical Contractors and Journeymen.** **Colby Cameron**, Sullivan and Reberger, representing the City of Meridian, stated the proposed legislation addresses Idaho Code § 54-1019, and the need for alternative qualifying criteria for residential and commercial electrical inspectors, while maintaining the high level of competency and experience that the statute intends. Many Idaho communities that perform inspections are experiencing difficulty in hiring qualified inspectors due to current qualifying criteria, which may delay a community's ability to perform electrical inspections. This would result in a negative impact on local economies. The legislation adds necessary qualifying criteria for electrical inspectors to address this need.

Mr. Cameron remarked there is no impact to the General Fund because this legislation does nothing to change how the hiring process for inspectors is administered. Additional qualifications are added for persons that can be hired.

DISCUSSION: **Senator Ward-Engelking** asked if there would be a possible situation where inspectors would not be as qualified as the people actually doing the work. **Mr. Cameron** noted that was not his understanding.

MOTION: **Senator Thayn** moved to send **RS 26630** to print. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

RS 26449C1 **Relating to Underground Facilities Damage Prevention.** **Patrick Grace**, Regional Manager, Idaho Division of Building Safety (IDBS), explained that under Idaho Code § 55-2211(1), the administrator of the IDBS recommends and the Damage Prevention Board (DPB) imposes training or civil penalties for those who violate Idaho Code § 55-22. This process has proven to be inefficient for the alleged violator, complainant, and IDBS. This proposed legislation will give the administrator of the IDBS authority to impose training or civil penalties and the authority to hear appeals regarding training or civil penalties. These changes will streamline this process and align it with the process for other chapters administered by the IDBS.

Mr. Grace reported Idaho Code § 55-2211 provides authority for the IDBS to impose training or civil penalties and enhanced civil penalties for subsequent violations with facility damage. However, Idaho Code § 55-2211 does not allow passage of a certain amount of time to "reset" the violation record of a violator unless the violations involve facility damage. Further, Idaho Code § 55-2211 does not provide penalties for third, fourth, fifth, or more violations without facility damage. This legislative proposal will address both of these issues.

Mr. Grace advised Idaho Code § 55-2211(1) allows the IDBS to impose training for a first violation and civil penalties for other violations. However, this section of code only allows an alleged violator to contest the imposition of civil penalties. Because the imposition of training potentially affects an alleged violator's future liability under the statute, due process requires that alleged violators be given the ability to also contest the imposition of training. This legislative proposal will allow an alleged violator to contest both training and civil penalties.

There will be a positive fiscal impact to the DPB fund created by more efficient processing of civil penalties. There is no fiscal impact, positive or negative, to any other State funds, including the General Fund.

DISCUSSION: **Senator Guthrie** did not agree the language should be changed from "may" to "shall." He remarked sanctions should not be imposed immediately until there was the opportunity for an appeal. **Mr. Grace** stated many do not appeal and this was only a recommendation. He reported no one would ever be denied an appeal and could make the appeal without paying the fee or training. **Senator Guthrie** voiced he still disagreed.

MOTION: **Senator Souza** moved to send **RS 26449C1** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

RS 26464C4 **Relating to Engineers and Surveyors.** **Tom Judge**, Deputy Director, Surveying, Idaho Professional Engineers and Land Surveyors (IPELS), reported this amendment expands the existing authorization to access private lands to include private land surveyors. Licensed professional land surveyors are the only persons authorized by Idaho statute to provide legal surveys of private property boundaries. The authorization to access and locate necessary property corners and evidence related to boundaries enables land surveyors to conduct a proper survey. Surveys supported by all of the required evidence protect real property rights.

Mr. Judge stated there is no fiscal impact to the General Fund or the dedicated fund of the agency, as the amendment addresses the manner in which private land surveyors conduct surveys. It does not adversely impact the regulation of professional land survey licenses.

DISCUSSION: **Senator Burgoyne** questioned the code sections relating to the right-of-entry for employee surveyors. **Mr. Judge** referred to two sections and explained the right-of-entry does not extend to contract surveyors. **Senator Burgoyne** noted that in subsection 3, permission still had to be obtained from the railroad in order to gain access to railroad property. **Mr. Judge** indicated the language in the rule was developed by the railroads and he noted it was his understanding that without that language, the railroads were going to object.

Senator Lakey questioned whether the trespass law made entry onto properties more difficult. **Mr. Judge** indicated that now, written permission is needed and many property owners object. **Senator Lakey** declared he would have questions for the bill hearing related to written and verbal permission.

MOTION: **Senator Guthrie** moved to send **RS 26464C4** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Agenbroad to introduce the rules.

DOCKET NO. 10-0102-1801 **Rules of Professional Responsibility. Tom Judge**, Deputy Director, Surveying, Idaho Professional Engineers and Land Surveyors (IPELS), reported the amendments will implement a requirement for professional land surveyors to notify affected adjacent landowners and the IPELS Board prior to setting a monument that represents a material discrepancy with another monument for the same property corner and potentially clouding the title of private land.

Mr. Judge stated there is no fiscal impact to the General Fund or the dedicated fund because the rule establishes obligations of licensed professional land surveyors to appropriately regard the public in their actions. The amendment does not increase the cost to the IPELS Board. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Senator Burgoyne** remarked this seemed like a good rule. He queried when a monument is moved, as the first monument was placed incorrectly, if land surveyors were supposed to take note of adverse problems that occurred 75 years ago. **Mr. Judge** acknowledged surveyors should walk owners through the process.

Vice Chairman Agenbroad queried about the process for notifying property owners. **Mr. Judge** replied the IPELS Board must show there was an effort to contact the owners.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 10-0102-1801**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 24-2801-1802 **Rules of the Barber and Cosmetology Services Licensing Board (New Chapter). Joan Callahan**, Administrative Attorney, Idaho Bureau of Occupational Licenses (IBOL), stated S 1324, passed during the 2018 Legislative Session, combined the Boards of Barber Examiners and Cosmetology. The new Idaho Barber and Cosmetology Services Licensing Board (IBCSLB) is adopting rules to implement the new law. These rules are based upon public protection, portability of licenses, and eliminating barriers to employment. The pending rules implement S 1324 (2018), which reduced the minimum hours of instruction required for cosmetology, barber-stylist, and electrology licenses; created a new certificate for individuals who only want to practice make-up artistry; and created a registration for retail thermal styling equipment dealers to do limited demonstrations on potential customers. The rules also specify what services a licensee may perform outside a licensed establishment; provide for the transfer of instructional hours between professions; and modernize safety and disinfection requirements.

Ms. Callahan noted the changes to the pending rule specify that a licensed instructor may maintain a single license to practice and instruct; allow the IBCSLB to place an establishment or facility license out of business after a 30-day written notice to the owner(s) when the IBCSLB has documentation or evidence that the establishment is out of business; expressly allow a student to count a certain number of instructor-approved hours for outside of school activities toward instructional hour requirements; and clarify language that was unclear or determined to be unnecessary.

Ms. Callahan explained the text of the pending fee rule has been amended in accordance with Idaho Code § 67-5227. Only those sections which have changes that differ from the proposed text are printed in the rule.

Ms. Callahan related the IBCSLB operates on dedicated funds and must be self-supporting. The following fees are established in accordance with Idaho Code § 54-5822: original license fee for individual licenses: \$25; original license fee for instructors: \$30; original license fee for establishments: \$20; original license fee for schools: \$300; original license or registration fee for facilities: \$20; renewal fee for individual licenses: \$25; renewal fee for instructors: \$30; renewal fee for establishments: \$20; renewal fee for schools: \$85; renewal fee for facilities: \$20; registration fee for apprentice: \$25; certificate for makeup artist: \$25; and license by endorsement fee: \$35.

DISCUSSION:

A lengthy discussion ensued with the Committee members and Ms. Callahan about this docket. **Chairman Patrick** remarked he thought there was conflicting language in the rule regarding transcripts, admission to college, and the General Education Development (GED) test. **Ms. Callahan** stated the legal age requirement for the GED is 16 and one-half years. The law requires two years of high school or the equivalent. This rule shows the equivalent, which is guidance for licensees. Passage of the GED is not a requirement.

Senator Souza emphasized the rule appeared to be a blend of the cosmetology and barber rules. **Ms. Callahan** reported both former boards looked at the rules. The new IBCSLB tried to create as many options as possible. **Senator Souza** and **Ms. Callahan** discussed how the rule guides the IBCSLB and the applicant through what the IBCSLB considers when looking at criminal or disciplinary history. The IBCSLB also looks at additional activities that have occurred that the applicant has undertaken which shows rehabilitation, and that the applicant is not a current risk to public health, safety, and welfare.

Senator Souza expressed a concern about the disinfection of towels and other items. She remarked this is a professional organization and the IBCSLB is regulating that towels must be placed in a basket that has venting. **Ms. Callahan** reported the rules and regulations have been developed from different boards throughout the country. Specific details put the licensee on notice as to what is expected. **Senator Souza** remarked barriers to entry and government regulation should be decreased, not increased. Licensees are being told in rule, in great detail, what they must do and if they do not follow that method exactly, then they will be marked down by the inspector. **Ms. Callahan** replied the IBCSLB has concentrated on working with the client rather than disciplining them.

Senator Guthrie stated when the two (Barber and Cosmetology) boards merged into the IBCSLB, each board brought a fund balance with them. **Senator Guthrie** queried how the two boards maintained a fair balance. **Ms. Callahan** commented the IBCSLB considered a number of options for distribution costs among the licenses. The fees were reduced because the cost sharing was in a larger group.

Senator Burgoyne suggested the IBCSLB use the words "relevant information" and eliminate the remainder of the wording. He advised more flexibility should be built into the rule.

Senator Lakey and **Ms. Callahan** discussed why the IBCSLB did not conduct formal negotiated rulemaking. **Ms. Callahan** indicated due to the time situation and the publication schedule, the IBCSLB chose not to conduct negotiated rulemaking.

Senator Guthrie asked if merged rules represented what was already in place or were the rules an expansion. **Ms. Callahan** explained many of the rules were a combination of Cosmetology and Barber rules. The disinfection portion was updated and given a more scientifically-based standard.

Senator Souza and **Ms. Callahan** discussed identifying the rule changes, the level of detail, and the addition of new sections for makeup artists.

Senator Burgoyne asked for an explanation of how the IBCSLB made the licensees and the public aware of the rule changes. **Ms. Callahan** stated at the end of 2018, both the Cosmetology and Barber Boards sent letters to licensees that rulemaking was going to be conducted. Another letter was sent outlining the temporary rules and the process of outlining some of the contents, including disinfection and safety. The IBCSLB sent out emails to all licensees inviting them to join subcommittees. Further, once the rules were proposed, the IBCSLB sent out an additional notice pointing out rules, dates, and contact information and posted all of the rules on the website.

Vice Chairman Agenbroad and **Ms. Callahan** discussed the ambiguity in the rules that were not Idaho-specific issues. They also discussed the idea that Boards across the country were working on uniformity.

- MOTION:** **Senator Souza** moved to approve **Docket No. 24-2801-1802** with the deletion of section 851, subsections 05, 06, and 07. **Senator Lakey** seconded the motion.
- DISCUSSION:** **Senator Souza** remarked she wanted those sections deleted because of the detail about safety and disinfection which are impediments to business operations. If the sections are removed, the IBCSLB can re-examine these sections.
- TESTIMONY:** **Kris Ellis**, representing Northwest Career College of Idaho, testified in support of the docket. She reported Idaho is aligned with other states and thanked the Committee. **Ms. Ellis** stated that with any law, the work is not done. She specified that sanitation is part of the training for cosmetologists and barbers.
- DISCUSSION:** **Senator Souza** reiterated the basics are still in place, but the rule goes into extreme detail and she requested the IBCSLB reduce the detail.
- SUBSTITUTE MOTION:** **Senator Martin** moved to approve **Docket No. 24-2801-1802**. The motion failed due to lack of a second.
- DISCUSSION:** **Senator Lakey** agreed with Senator Souza and her original motion.
- ORIGINAL MOTION:** The motion to approve **Docket No. 24-2801-1802** with the deletion of section 851, subsections 05, 06, and 07, carried by **voice vote**.
- PASSED THE GAVEL:** Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.
- ADJOURNED:** There being no further business, **Chairman Patrick** adjourned the meeting at 2:58 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, January 31, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26524</u>	Relating to Purchasing By Political Subdivision	Senator Den Hartog
<u>RS26671</u>	Relating to Credit Unions	Ryan Fitzgerald, NW Credit Union
MINUTES APPROVAL:	Minutes of January 22, 2019	Senator Thayn
DOCKET NO. <u>24-1801-1801</u>	Rules of the Real Estate Appraiser Board	Scott Calhoun, Real Estate Appraiser Board Member
<u>24-1801-1802</u>	Rules of the Real Estate Appraiser Board	Scott Calhoun
<u>24-0101-1801</u>	Rules of the Board of Architectural Examiners	Roger Hales, Administrative Attorney, Idaho Bureau of Occupational Licenses
<u>24-0801-1801</u>	Rules of the State Board of Morticians	Roger Hales
<u>24-2501-1801</u>	Rules of the Idaho Driving Business Licensure Board	Roger Hales
<u>49-0101-1801</u>	Rules of Procedure of Idaho Certified Shorthand Reporters Board	Roger Hales
<u>10-0101-1801</u>	Rules of Procedure	Keith Simila, Executive Director, Idaho Prof. Engineers & Land Surveyors
<u>01-0101-1801</u>	Idaho Accountancy Rules	Kent Absec, Executive Director, Idaho State Board of Accountancy
<u>01-0101-1802</u>	Idaho Accountancy Rules	Kent Absec

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

COMMITTEE SECRETARY

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

DATE: Thursday, January 31, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

RS 26524 **Relating to Purchasing by Political Subdivision. Senator Den Hartog** reported this bill repeals and replaces procurement statute in Idaho Code § 67-2807 related to political subdivision. Modifications include changes to cooperative purchasing processes.

There is no impact to the General Fund. It is anticipated the change will not have a direct financial impact on political subdivisions, but will provide for a more streamlined and efficient procurement process.

MOTION: **Senator Guthrie** moved to print **RS 26524**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 26671 **Relating to Credit Unions. Ryan Fitzgerald**, Northwest Credit Union Association, advised this legislation provides technical corrections and further amends the internal governance provisions of the Idaho Credit Union Act that were amended in 2018. He noted this legislation amends the requirements for annual credit union membership meetings in order to allow greater access for members to be involved in the governance of their credit union; makes a technical correction to the different options a credit union supervisory committee can utilize in verifying member accounts; adds technical descriptors to further define the Capital, Assets, Management, Earnings, Liquidity, and Sensitivity (CAMELS) rating system; and amends bond requirements to clarify what each credit union must carry in order to insure against risk versus optional coverages that may also be purchased by the credit union.

Mr. Fitzgerald explained there will be no fiscal impact to the General Fund associated with this proposed legislation. The provisions of this proposed legislation specifically relate to corporate governance of state-chartered credit unions and will require no additional resources of the Idaho Department of Finance (IDOF). Additionally, they will not increase or decrease the IDOF's revenues.

MOTION: **Senator Souza** moved to print **RS 26671**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Thayn** moved to approve the Minutes of January 22, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairman Patrick passed the gavel to Vice Chairman Agenbroad to hear the rules.

DOCKET NO. 24-1801-1801

Rules of the Real Estate Appraiser Board (REAB). **Scott Calhoun**, REAB member, described recent changes made by the Appraisal Qualifications Board (AQB) to the minimum qualifications for certain classifications of real estate appraiser licenses. This allows the Idaho REAB to reduce barriers to obtaining an Idaho license. **Mr. Calhoun** specified the change to Section 300 of these rules removes the requirement for an associate's degree and lowers the experience requirement for licensed residential real estate appraisers. The change to Section 350 adds alternative pathways to complete the education requirement and lowers the experience requirement for a certified residential real estate appraiser. The change to Section 400 shortens the time period to complete the requisite experience hours for a certified general real estate appraiser.

There is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because the temporary rule is responding to changes made at the federal level, and the proposed changes to these rules were discussed during noticed, open meetings of the REAB. There is no incorporation by reference.

DISCUSSION:

Senator Lakey noted that negotiated rulemaking was not conducted. **Mr. Calhoun** deferred to Kelley Packer, Bureau Chief, Idaho Bureau of Occupational Licenses (IBOL). **Ms. Packer** reported that in recent years in order to reduce costs, there has been informal negotiated rulemaking. Notifications are sent out to all licensees via email and postcards noting the items that will be discussed. The rules are posted on the IBOL's website. Input is encouraged. If there are negative comments, questions, or concerns, the IBOL addresses those issues.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 24-1801-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 24-1801-1802

Rules of the Real Estate Appraiser Board (REAB). **Scott Calhoun**, REAB member, reported Section 150 of these rules will reduce the application fee from \$250 to \$200, original license fees from \$140 to \$100, and license renewal fees from \$365 to \$275 for certified general appraisers, certified residential appraisers, and licensed general appraisers. The registration fee for Appraisal Management Companies (AMCs) has been reduced from \$1,200 to \$1,000 and the AMC renewal fee will be reduced from \$1,200 to \$900. In addition, the temporary permit fee will be reduced from \$100 to \$75.

There is no impact to the General Fund. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the REAB. There is no incorporation by reference.

DISCUSSION:

Chairman Patrick praised Mr. Calhoun for saving money.

MOTION:

Senator Guthrie moved to approve **Docket No. 24-1801-1802**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-0101-1801**

Rules of the Board of Architectural Examiners (IBAE). **Mauri Ellsworth**, Administrative Attorney, Idaho Bureau of Occupational Licenses (IBOL), testified in place of Roger Hales, and advised H 458 (2018), modernizes and reorders the provisions of Idaho Code § 54-3. Amendments to the rule will facilitate the implementation of H 458, eliminate unnecessary language and sections, and remove a 30-day application deadline. These changes will make it easier for licensees and those seeking licensure to review rules.

There is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because this is a temporary rule. This rule removes the July 2015 National Council of Architectural Registration Board (NCARB) Certification Guidelines from incorporation by reference.

DISCUSSION:

Senator Thayn pointed out a grammatical error in Section 175, subsection 01 with respect to a semicolon and noted that something was left out. **Mr. Ellsworth** explained the subsection contains the review authority and exemption in subsection 02 and is an outline of processes.

Chairman Patrick asked about confidentiality relating to administrative action against an architect. **Mr. Ellsworth** pointed out an investigation is private when in the investigative phase. At the time the complaint is filed, it becomes a public matter.

MOTION:

Senator Thayn moved to approve **Docket No. 24-0101-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-0801-1801**

Rules of the Idaho State Board of Morticians (ISBM). **Rob McQuade**, Legal Counsel for the Idaho Bureau of Occupational Licenses (IBOL), introduced Steve Gordon, mortician, who would be presenting in place of Roger Hales. **Mr. Gordon** commented the proposed rule will address what happens to a certificate of authority when a mortician or funeral director places their license on inactive status, or returns their license to active status. The proposed rule change will establish that a licensee's certificate of authority expires when the licensee becomes inactive, and provides that it may be reissued when the license is returned to active status.

There is no impact to the General Fund. Negotiated rulemaking was not conducted because the proposed rule was discussed and decided upon during noticed, open meetings of the IBOL. There is no incorporation by reference.

DISCUSSION:

Senator Souza commented that if a certificate of authority becomes inactive, did that mean someone else could obtain that certificate. **Mr. Gordon** noted that in Idaho a funeral director has to be licensed, which is the certificate of authority. When a mortician becomes inactive, there is no certificate of authority. This rule cleans up and clarifies inactive status and allows reinstatement. In answer to Senator Souza's question, **Mr. Gordon** stated there are a limited number of certificates of authority in Idaho and any qualified mortician could receive one.

MOTION:

Senator Guthrie moved to approve **Docket No. 24-0801-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-2501-1801**

Rules of the Idaho Driving Business Licensure Board (IDBLB). Rob McQuade, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), testified in place of Roger Hales. **Mr. McQuade** indicated the IDBLB's proposed rule changes will allow the IBOL to consider applications received less than seven days prior to an IBOL meeting. The rule change also provides a waiver for the Instructor Apprenticeship Training Program for individuals who have completed the Idaho State Department of Education's (ISDE) instructor training program, and allows a public driver education instructor who was licensed within the last five years to qualify for a private driving instructor license. The rule change will eliminate the requirement that an instructor have five or more continuous years of driver education experience to teach apprentices in a private driving school. The rule change will also provide a provision for the carryover of continuing education hours. These changes will reduce regulation, provide flexibility to licensees and applicants, and eliminate barriers to employment.

There is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the IBOL. There is no incorporation by reference.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 24-2501-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
49-0101-1801**

Rules of Procedure of Idaho Certified Shorthand Reporters Board (ICSRB). Rob McQuade, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), testified in place of Roger Hales. **Mr. McQuade** pointed out this pending rule removes language pertaining to the executive secretary position which is no longer applicable. The rule adds a new section for the written statement of suitability for licensure to enable the IBOL to consider certain factors when reviewing an applicant with criminal history.

There is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the IBOL. There is no incorporation by reference.

DISCUSSION:

Senator Souza asked for clarification of what industry was most commonly employed in this field. **Mr. McQuade** explained another term would be certified court reporters.

MOTION:

Senator Martin moved to approve **Docket No. 49-0101-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
10-0101-1801**

Rules of Procedure. Keith Simila, Executive Director, Idaho Professional Engineers and Land Surveyors (IPELS), advised that the IPELS Board found it in the public interest to implement the requirements of S 1252 (2018) by a rule change to ensure the rule is consistent with the law. The IPELS Board also finds that clarifying the university requirement at the Bachelor of Science (B.S.) level for applicants with a degree from the United Kingdom (U.K.) is needed. This clarification means that applicants with a B.S. engineering degree from an accredited U.K. university are unconditionally approved. No other degree options are unconditionally approved. The clarification came out of dialog with the U.K. Engineering Council representatives during the rulemaking process.

There is no fiscal impact to the General Fund. There is a minor (less than \$10,000) reduction in dedicated funds. No fiscal impact is expected because of S 1252. The timing of when a person takes an examination will be unduly influenced when eligible for licensure. A four-year experience time period governs when a person will be eligible for licensure, not the examination. The discontinuance of a certificate may have a minor impact on revenue estimated

as renewal or late fees and will not accumulate when this option is selected. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Senator Lakey** noted there was a discrepancy on grading scores. **Mr. Simila** explained this was not described in rule. The scoring has to do with the difficulty of the exam and there are different ways to score the exam.

MOTION: **Senator Thayn** moved to approve **Docket No. 10-0101-1801**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. **01-0101-1801** **Idaho Accountancy Rules. Kent Absec**, Executive Director, Idaho State Board of Accountancy (ISBA), reported Rule 606 is amended and updated to reflect that a firm or licensee, if advised by a peer reviewer or team captain that a grade of fail will be recommended on peer review, must notify the ISBA within 30 days. Amending this rule helps protect the public and those that rely on reports issued by Certified Public Accountants (CPA's). It also helps firms or licensees be in compliance when issuing peer reviewable services for clients.

Mr. Absec noted Rule 617 is amended to help the ISBA take appropriate action to protect the public should they determine, through the peer review process, that a firm or licensee's performance and/or reporting practices are not or may not be in accordance with applicable professional standards.

There is no impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Senator Burgoyne** pointed out that in Rule 606 there is a reference to Rule 602. He asked, with respect to corrective actions, what kind of products are being addressed. **Mr. Absec** explained a licensee performs a financial statement compilation that provides a more in-depth look at the business with more verification. A report is then produced, which is used by banks and other entities. An audit is a review of the business, where inventory and checking accounts are examined.

Mr. Absec explained subchapter G covers all the rules that apply to a firm registering with the Idaho State Board of Accountancy (ISBA). It also applies to the peer review process, including initial reports, participation in a program with administering the organization, the frequency of a peer review, how those peer reviews should be reported to the ISBA, and how the administering organization is approved by the ISBA. In answer to Senator Burgoyne's question, **Mr. Absec** noted part of Chapter G is a penalty rule that is incorporated by reference. The penalty is \$100 per licensee of the actual firm.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 01-0101-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. **01-0101-1802** **Idaho Accountancy Rules. Kent Absec**, Executive Director, Idaho State Board of Accountancy (ISBA), reported Rule 108 eliminates reference to the former paper-based exam which is no longer applicable. The rule will now focus only on the applicable computer-based exam. He explained Pending Rule 304 will allow the ISBA to utilize established substantial equivalency standards of other states, as established by the National Association of State Boards of Accountancy (NASBA). This will help make a more efficient and less challenging process for reciprocal license applicants. This will also allow the agency to gather information from the Accountancy Licensing Database electronically, instead of requiring a candidate to have another jurisdiction supply the information to Idaho on a paper-based medium. **Mr. Absec** outlined the change in Pending Rule 502, which will now allow licensees with a status of CPA-Retired or CPA-Inactive to provide volunteer accounting services that they were prohibited from doing in the

past or as the current rule stands. Individuals with these statuses will now be able to serve on boards of non-profit organizations, such as homeowner associations, and assist citizens in the Volunteer Income Tax Assistance (VITA) program.

There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION:

Senator Lakey asked for clarification on exam requirements, testing a section at a time, and the testing window. **Mr. Absec** explained CPAs can retake failed portions of the exam, but within an 18-month window. He remarked the ISBA is considering continuous year-round testing. He and Senator Lakey discussed the 18-month window and the benefits of doing year-round testing, which would remove testing windows.

Senator Burgoyne inquired if retired or inactive CPAs who volunteer without pay have access to continuing education through the ISBA. **Mr. Absec** remarked there is no program, but education is offered under other societies. **Senator Burgoyne** asked what kind of control the ISBA had over an inactive member. **Mr. Absec** reported the ISBA has jurisdiction over an inactive member. In response to a question by Senator Burgoyne, **Mr. Absec** indicated the ISBA wants to allow inactive or retired CPAs to help senior citizens with federal or state income tax returns. The IDBA code of ethics states that a CPA is not to perform services if they do not have the expertise. **Senator Burgoyne** remarked it is not the professional standard to decide if a person is competent if inactive. An inactive or retired CPA should have an active status. **Mr. Absec** commented when a retiree wants to help, they call the ISBA to ask if they can provide this service. This is a niche for individuals to give back to the community.

MOTION:

Senator Souza moved to approve **Docket No. 01-0101-1802**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

PASSED THE GAVEL:

Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.

ADJOURNED:

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

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 05, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26684</u>	Relating to the Barber and Cosmetology Services Act	Senator Jim Guthrie
MINUTES APPROVAL:	Minutes of January 24, 2019	Senator Mary Souza
DOCKET NO. <u>07-0206-1702</u>	Rules Concerning the Idaho State Plumbing Code	John Nielsen, Plumbing and HVAC Manager, Idaho Division of Building Safety
<u>07-0701-1703</u>	Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems	John Nielsen
<u>07-0501-1801</u>	Rules of the Public Works Contractor's License Board	Patrick Grace, Regional Manager, Idaho Division of Building Safety
<u>07-1001-1801</u>	Rules Governing the Damage Prevention Board	Patrick Grace
<u>12-0108-1801</u>	Rules Pursuant to the Uniform Securities Act (2004)	James A. Burns, Securities Bureau Chief, Idaho Department of Finance
<u>28-0203-1802</u>	Rules of the Idaho Regional Travel and Convention Grant Program	Matt Borud, Marketing and Innovation Administrator, Idaho Department of Commerce
<u>17-0206-1801</u>	Employers' Reports	Patti Vaughn, Benefits Administration Manager, Idaho Industrial Commission
<u>17-0207-1801</u>	Procedures to Obtain Compensation	Patti Vaughn
<u>17-0210-1801</u>	Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compliance - Insurance Carriers	Patti Vaughn
<u>17-0210-1802</u>	Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compensation - Insurance Carriers	Patti Vaughn

17-0211-1801 Administrative Rules of the Industrial Commission Patti Vaughn
Under the Workers' Compensation Law - Security
for Compensation - Self-Insured Employers

17-0211-1802 Administrative Rules of the Industrial Commission Patti Vaughn
Under the Workers' Compensation Law - Security
for Compensation - Self-Insured Employers

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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
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: Tuesday, February 05, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

RS 26684 **Relating to the Barber and Cosmetology Services Act. Senator Jim Guthrie** reported this legislation will provide for apprenticeship opportunities for barbering and barber-styling professions. These changes will be consistent with the changes made for cosmetology last session.

MOTION: **Senator Lakey** moved to send **RS 26684** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Souza** moved to approve the Minutes of January 24, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Agenbroad to begin hearing the rules.

DOCKET NO. 07-0206-1702 **Rules Concerning the Idaho State Plumbing Code. John Nielsen**, Plumbing, Heating, Ventilation, and Air Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (IDBS), reported section 603.5.12 of the 2017 Idaho State Plumbing Code (ISPC) requires potable water supply to beverage dispensers or coffee machines be protected by an air gap or reduced pressure principle backflow prevention assembly. Installation of a reduced pressure principle backflow prevention assembly is not necessary to protect potable water supply to beverage dispensers or coffee machines because beverage dispensers and coffee machines are not considered highly hazardous. Allowing installation of vented backflow preventers instead of reduced pressure principle backflow prevention assemblies on beverage dispensers and coffee machines will result in significant cost savings for consumers installing beverage dispensers or coffee machines.

Mr. Nielsen indicated that due to the difficulty of complying with a restriction on installing cleanouts under the floor, residential builders are increasingly installing large cleanouts above the floor. Plumbers, builders, and home buyers have complained about the aesthetics of large cleanouts installed above the floor.

Mr. Nielsen noted that in 2016, the U.S. Department of Energy (USDE) changed its method for determining the first hour rating (number of gallons required) of residential water heaters, resulting in revised ratings. Manufacturers were required to display the revised ratings starting in June 2017. Revising the ratings in Table 501.1(1) of the 2017 ISPC to reflect the new method for determining ratings will allow plumbing contractors and inspectors to easily match the ratings on

manufacturer displays with ratings in Table 501.1(1).

Mr. Nielsen advised there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. He gave a brief synopsis of why the materials cited are being incorporated by reference into this rule. This rulemaking revises section 603.5.12 to require potable water supply to beverage dispensers or coffee machines to be protected by an air gap or vented backflow preventer. Further, this rulemaking revises section 707.4 of the 2017 ISPC to allow water closets to act as cleanouts and require installation of exterior, two-way cleanouts. This rulemaking replaces the first hour ratings currently in Table 501.1(1) of the 2017 ISPC with ratings calculated using the USDE's revised method for determining ratings.

DISCUSSION: **Senator Burgoyne** and **Mr. Nielsen** discussed the aesthetics portion of the Rule for cleanouts, the current Rule, and the possibility of having a negative impact on the public. **Chairman Patrick** commented the aesthetics portion should not be in code. **Mr. Nielsen** commented he was not sure the aesthetics portion should be in code or is necessary. **Senator Lakey** indicated he agreed with Chairman Patrick.

MOTION: **Chairman Patrick** moved to approve **Docket No. 07-0206-1702** with the exception of Section 11, subsection 35, "each horizontal drainage pipe shall be provided with a cleanout at its upper terminal, and each run of piping, that is more than 100 feet in total developed length, shall be provided with a cleanout for each 100 feet or fraction thereof" for aesthetic reasons. After a brief discussion with Mr. Nielsen, **Chairman Patrick** withdrew his motion.

DISCUSSION: **Mr. Nielsen** and **Senator Souza** discussed current code and the proposed change in this rule. **Senator Lakey** cited the aesthetics portion of section 11, new subsection 35, and remarked the existing code is appropriate and should not be changed.

MOTION: **Senator Lakey** moved to approve **Docket No. 07-0206-1702**, with the deletion of section 11, new proposed subsection 35. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0701-1703 **Rules Governing Installation of Heating, Ventilation, and Air Conditioning (HVAC) Systems.** **John Nielsen**, Plumbing and HVAC Program Manager, Idaho Division of Building Safety (IDBS), advised HVAC apprentices must currently complete four years of work experience to take the journeyman examination. Further, in 2006, the Idaho HVAC Board approved giving apprentices who successfully complete a full-time, one-year training course credit for one year of work experience. The IDBS stopped giving this type of credit to apprentices when it was discovered that the IDBS Board's decision conflicted with a rule requiring that work experience be completed on-the-job and not in an educational setting.

Mr. Nielsen stated the rulemaking will allow apprentices to take the journeyman examination before completing four years of work experience. This proposed rulemaking will also allow apprentices, who successfully complete an IDBS Board-approved, full-time, one-year training course, to receive credit for up to one year of work experience.

There is no fiscal impact on the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Mr. Nielsen**, in response to a question by Senator Burgoyne, indicated credit was granted for one year of work experience when obtaining course credit, but it was in conflict with a rule requiring that work experience be completed on-the-job and not in an educational setting. **Mr. Nielsen** reported notices were sent out and there was no opposition. The changes were discussed at three IDBS Board meetings.

MOTION: **Senator Guthrie** moved to approve **Docket No. 07-0701-1703**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0501-1801 **Rules of the Idaho Public Works Contractor's License Board (IPWCLB)**. **Patrick Grace**, Regional Manager, Idaho Division of Building Safety (IDBS), explained that under Idaho Code § 54-1910(a), a public works contractor licensee must designate a qualified individual (QI) by examination. If a QI ceases "to be connected" with the contractor, the contractor must notify the administrator of the IDBS "in writing within ten days." If the contractor provides notice in ten days, the contractor's license remains in force "for a reasonable length of time, to be determined by rules of the IPWCLB." If the contractor does not provide notice in ten days, the contractor's license is automatically suspended.

Mr. Grace reiterated there is no rule that defines how long "a reasonable length of time" is. Further, the IDBS cannot always determine what constitutes written notice that a QI has ceased to be connected with a contractor.

Mr. Grace indicated this proposed rulemaking will define a QI, determine the "reasonable length of time" a contractor's license will remain in force, and clarify the notice that a contractor's QI has ceased to be connected with the contractor must be provided on forms prescribed by the administrator. There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION: **Senator Souza** and **Mr. Grace** discussed the implications of a QI licensee who ceased to be connected with a company. **Senator Burgoyne** queried if the permittee may perform work during the 90-day period until a replacement could be found. **Mr. Grace** reported the intent was to keep the license active until another person is qualified for that company. **Mr. Grace** remarked the exam is principally an exam which tests knowledge of business practices. **Senator Burgoyne** stated that if the statute calls for an automatic suspension, that it cannot be accomplished by rule. **Mr. Grace** remarked the IPWCLB does not automatically suspend a company who loses a QI. The IPWCLB has opted to provide due process. **Senator Souza** noted the statute says "immediate suspension" and queried if the language be changed to "due process". **Mr. Grace** advised that may be an unnecessary provision in law. **Senator Burgoyne** stated it was not too late to amend the statute, but the rule and the statute should be consistent with one another. He suggested the rule be held subject to the call of the Chair.

Mr. Grace stated the rule is not inconsistent, as it sets forth a time period of 90 days to replace the QI. The IPWCLB does not want to suspend immediately. He reiterated he was not sure the rule was inconsistent.

Senator Guthrie and **Mr. Grace** discussed the training timeframe, how many opportunities were available to take the exam, the suspension of a license, and the consequences for a contractor.

MOTION: **Senator Guthrie** moved to approve **Docket No. 07-0501-1801**. **Senator Martin** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

Senator Lakey commented it would be prudent for Mr. Grace to follow up and investigate whether there needs to be a statutory change.

**DOCKET NO.
07-1001-1801**

Rules Governing the Damage Prevention Board. Patrick Grace, Regional Manager, Idaho Division of Building Safety (IDBS), advised the Damage Prevention Board (DPB) has authority, under Idaho Code §§ 55-2203 and 55-2211, to hear contested case appeals. The parties requesting these appeals often do not attend the appeal hearings or pay penalties imposed (at significant cost) to the DPB and the IDBS.

Mr. Grace noted Idaho Code § 55-2203 requires the DPB to review complaints alleging violations, including inaccurate location of facilities and untimely location of facilities. However, locators are not subject to civil penalties under the Idaho Administrative Procedure Act (IDAPA) 07.10.01. IDAPA 0.01.008 refers to underground "utility" owners in several places. However, Idaho Code § 55-22 only refers to underground "facility" owners.

Mr. Grace commented this rulemaking will require parties requesting appeals to pay an appeal bond of \$200. This rulemaking will also change any reference to "underground utility owners" in IDAPA 07.10.01.008 to "underground facility owners." Finally, this rulemaking will define locators and subject them to civil penalties. There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION:

Senator Burgoyne moved to approve **Docket No. 07-1001-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
12-0108-1801**

Rules Pursuant to the Uniform Securities Act (2004). James Burns, Securities Bureau Chief, Idaho Department of Finance (IDOF), reported Rule 59 (12.01.08.059) is being eliminated as it provided for the implementation of a federal securities issuer exemption that no longer exists. Rule 103 (12.01.08.103) is being amended to address recent changes in examinations of uniform securities as adopted by both federal and state securities regulators.

Mr. Burns stated there is no impact to the General Fund. Negotiated rulemaking was not conducted for this rule as it is simple in nature and negotiation would be ineffective. There is no incorporation by reference.

DISCUSSION:

Senator Burgoyne inquired if any consumer protections would be removed with the appeal of this rule. **Mr. Burns** stated by operation of other rules, as well as the additional rule changes made in 2017, those who offer and sell securities in Idaho have an affirmative obligation to make sure that a transaction is suitable for the consumer who will be purchasing the security.

Senator Lakey remarked the testing requirements are an effort to remove barriers to entry. **Mr. Burns** stated the rule reduces redundancy. Requirements for taking the Series 66, the Series 7, and the Securities Industry Essentials exam were discussed. **Senator Lakey** remarked it seemed like an additional test was being added versus simplifying and getting rid of redundancy. **Senator Lakey** and **Mr. Burns** discussed that negotiated rulemaking was not done for something that was added. **Mr. Burns** indicated the Financial Industry Regulatory Authority (FINRA) engages with State regulators, and even though notices were not sent out in Idaho, the industry is involved to make sure everything makes sense. In some respects, the test is shorter.

MOTION:

Chairman Patrick moved to approve **Docket No. 12-0108-1801**. **Senator Guthrie** seconded the motion.

DISCUSSION: **Senator Souza** commented she did not mind that the test was split. She remarked someone who is not already in the field could take the basics test and show a potential employer they have skills, which would help to get hired in the securities field. **Mr. Burns** commented in the past, a potential test candidate had to be hired before taking the test. This new test opens up more possibilities.

Senator Burgoyne stated he was not in favor of this rule because negotiated rulemaking was not conducted. A testing requirement should have public notice.

Senator Lakey remarked he was voting nay. **Senator Lakey** and **Mr. Burns** discussed how FINRA and the industry had addressed the issue of the testing requirements, but this was not described in the docket.

VOICE VOTE: The motion carried by **voice vote**. **Senators Burgoyne** and **Lakey** asked to be recorded as voting nay.

DOCKET NO. 28-0203-1802 **Rules of the Idaho Regional Travel and Convention Grant Program** (Program). **Matt Borud**, Marketing and Innovation Administrator, Idaho Department of Commerce (IDOC), reported the IDOC adopted a temporary rule on March 2, 2018, to define and clarify allowable costs of the Program so that it would continue to operate without interruption. This proposed rule implements the temporary rule without change and provides for other minor rule edits for housekeeping purposes.

Mr. Borud indicated there is no fiscal impact to the General Fund. Negotiated rulemaking was facilitated by involving current grant recipients in the formulation of the policy through telephone interviews, surveys, one-on-one meetings, and public meetings of the Idaho Travel Council (ITC). The ITC was presented with the results of the data collected and IDOC staff proposed a revision to the rule. The temporary rule was endorsed by the ITC and adopted by the IDOC Director on March 2, 2018. There is no incorporation by reference.

DISCUSSION: **Senator Thayn** and **Mr. Borud** discussed the idea that the Chamber of Commerce is more of a destination marketing organization. **Mr. Borud** explained the IDOC is seeking to more accurately define exactly who was participating in the program.

MOTION: **Senator Souza** moved to approve **Docket No. 28-0203-1802**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 17-0206-1801 **Employers' Reports**. **Patti Vaughn**, Benefits Administration Manager, Idaho Industrial Commission (IIC), remarked the IIC is adopting the pending rule with a minor change to the "termination of disability" to comply with the Electronic Data Interchange (EDI), based on related comments on EDI procedures from sureties. EDI is a process of business information which allows one company to send information to another company electronically rather than with paper. Business entities conducting business electronically are called trading partners.

Ms. Vaughn explained there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION: **Chairman Patrick** moved to approve **Docket No. 17-0206-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
17-0207-1801**

Procedures to Obtain Compensation. **Patti Vaughn**, Benefits Administration Manager, Idaho Industrial Commission (IIC), reported the Idaho Industrial Commission (IIC) seeks to clarify that the International Association of Industrial Accident Boards and Commissions (IAIABC) Electronic Data Interchange (EDI) Claims 3.0 Implementation Guide and Trading Partner Tables referenced in the Rule are the roadmaps on how to properly report claims electronically; and they are not part of the rule. This is being done by moving the references to these guides from the Incorporation by Reference section to the Written Interpretations section of the rule. The changes also clarify the requirements for Trading Partner Agreements and eliminate obsolete procedures for submission of paper claims.

Ms. Vaughn stated there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION:

Senator Souza moved to approve **Docket No. 17-0207-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
17-0210-1801**

Administrative Rules of the Idaho Industrial Commission (IIC) Under the Workers' Compensation Law - Security for Compliance - Insurance Carriers. **Patti Vaughn**, Benefits Administration Manager, IIC, reported the IIC seeks to clarify the new electronic requirements for insurance carriers on the submission of First Reports of Injury and Claims for Benefits, notices of occupational illness, and fatalities. The changes also eliminate the need to submit paper documentation in support of electronically-filed initial payments.

Ms. Vaughn stated there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION:

Senator Martin moved to approve **Docket No. 17-0210-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
17-0210-1802**

Administrative Rules of the Idaho Industrial Commission (IIC) Under the Workers' Compensation Law - Security for Compensation - Insurance Carriers. **Patti Vaughn**, Benefits Administration Manager, IIC, indicated the IIC seeks to authorize and set forth conditions for the use of electronic fund transfers and access cards to pay benefits due to injured workers by insurance carriers.

Ms. Vaughn reported there is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

DISCUSSION:

A discussion ensued between **Senator Lakey** and **Ms. Vaughn** regarding the written disclosure to the claimant including the full text in English, Spanish, and any other language common to the claimant population. **Senator Lakey** asked for a definition of the claimant population. **Ms. Vaughn** replied that the claimant population is not defined and not tracked. She stated there are not many requests for any other language other than what is mentioned in rule. **Senator Lakey** voiced a concern about using a broad term that is not defined. **Ms. Vaughn** reported the IIC only provides text in English. She remarked the insurance carrier would have the obligation of providing text in another language. **Senator Burgoyne** stated it is important claimants receive notices from the insurance companies in a language they can understand. It is important the IIC gathers information on this issue. **Ms. Vaughn** said she would continue to explore this possibility in the future. **Senator Guthrie** asked if any insurance carriers complained. He remarked the language should be all inclusive. **Ms. Vaughn** stated the carriers are in support and materials in other languages are already in place for claims in other states.

MOTION:

Chairman Patrick moved to approve **Docket No. 17-0210-1802**. **Senator Burgoyne** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Souza moved to approve **Docket No. 17-0210-1802**, with the exception of section 8, subsection e (ii), "include the full text in English, Spanish, and any other language common to the claimant population." **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. **Senators Burgoyne** and **Ward-Engelking** asked to be recorded as voting nay.

**PASSED THE
GAVEL:**

Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:01 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 07, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26711</u>	Relating to Insurance - Pharmacy Benefit Managers	Chairman Jim Patrick
<u>RS26753</u>	Relating to Insurance - Dental Insurance	Elizabeth Criner, Idaho State Dental Association Senator Mary Souza
<u>RS26738</u>	Relating to the Public Employee Retirement System of Idaho (PERSI)	Senator Todd Lakey
<u>RS26638</u>	Relating to Fees and Expenses	Senator Lori Den Hartog
<u>RS26779</u>	Relating to the Idaho Administrative Procedure Act	Senator Lori Den Hartog
<u>RS26762</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace, Regional Manager, Division of Building Safety
<u>S 1008</u>	Relating to Electrical Contractors and Journeymen	Warren Wing, Electrical Program Manager, Division of Building Safety
<u>S 1026</u>	Relating to Plats, Vacations, and Recording of Surveys	Tom Judge, Deputy Director - Surveying, Board of Professional Engineers and Land Surveyors
<u>S 1028</u>	Relating to Workers' Compensation First Responders, PTSD	Representative Mat Erpelding, Senator Chuck Winder

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

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 07, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

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

RS 26711 **Relating to Insurance - Pharmacy Benefit Managers (PBMs).** **Chairman Patrick** reported PBMs are third-party administrators under contract by health plans, employers, and government entities to manage prescription drug programs for health plan recipients. PBMs decide which pharmacies are included in a prescription drug plan's network and how much the pharmacy will be paid for dispensing services. Idaho is one of five states that do not regulate or have any oversight over PBMs. This bill will require PBMs that operate in Idaho to register with the Idaho Department of Insurance (IDOI). It also gives pharmacists more flexibility in informing patients how they can pay less out-of-pocket for prescriptions. Today, PBMs prohibit pharmacies from discussing prescription cost options with their patients. Recently, legislation passed and was signed into law at the federal level prohibiting "gag clauses" on Medicare Part D and Advantage plans. State legislation is still needed for all other insurance. Most already have this type of law in effect. Lastly, the bill includes language that will save health plans money via reimbursement rates and deductibles when rebates, coupons, vouchers, discounts, and other direct payments are applied towards prescriptions.

Chairman Patrick indicated the amount of the fiscal impact is unknown, since it is projected to potentially have a significant cost savings to the State Employee Health Insurance Program and Medicaid.

MOTION: **Senator Lakey** moved to send **RS 26711** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

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

UNANIMOUS CONSENT: **Senator Burgoyne** asked for unanimous consent to send the following RS's to print: **RS 26753 ; RS 26738 ; RS 26638 ; RS 26638 ; RS 26779 ; and RS 26762** . There being no objections, the motion carried by **voice vote**.

S 1008 **Relating to Electrical Contractors and Journeymen.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), reported this legislation provides an additional path to licensing.

DISCUSSION: **Senator Burgoyne** asked if there was any negative feedback and **Mr. Wing** reported there was none.

TESTIMONY: **John Eaton**, Idaho Association of Commerce and Industry, testified in support of this bill.

MOTION: **Senator Lakey** moved to send **S 1008** to the floor with a **do pass** recommendation. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

S 1026 **Relating to Plats and Vacations and Recording of Surveys.** **Tom Judge**, Deputy Director, Surveying, Idaho Professional Engineers and Land Surveyors (IPELS), testified that the purpose of the survey narrative is to offer a rational summary of the evidence accepted and rejected and to ensure evidence is not missed or misinterpreted. He remarked the survey narrative will serve to perpetuate a record of the evidence considered and the principles applied in performing the survey. This will aid the public and future surveyors by making the record more clear and complete.

DISCUSSION: **Senator Thayne** inquired if the narrative required much more work or if it was a burden on surveyors. **Mr. Judge** stated there would be a brief period of adjustment; however, there is no measurable time added to plats, vacations, and recording of surveys. This helps prevent mistakes.

TESTIMONY: **Darin Taylor**, Mayor, City of Middleton, testified in support of this legislation. He remarked good surveyors already perform this type of summary to ensure the evidence is not missed or misinterpreted.

Glenn Bennett, IPELS, testified in support of this legislation. He noted that by writing a narrative, that changes the way of thinking and processing. This has changed his opinion of what he is doing and is a valuable process.

MOTION: **Vice Chairman Agenbroad** moved to send **S 1026** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1028 **Relating to Workers' Compensation First Responders, Post-Traumatic Stress Disorder (PTSD).** **Senator Winder** noted this bill identifies PTSD, or PTSI, as an occupational injury that affects Idaho's first responders. Under current law, a mental injury must be accompanied by a physical injury. This changes current statute that if a first responder has "clear and convincing" evidence of a physiological injury, the treatment would be handled through workers' compensation. There is a sunset clause of July 1, 2023.

Senator Winder remarked first responders see some horrific things, something beyond the ordinary, which can have a huge impact, and result in PTSD or PTSI.

DISCUSSION: **Senator Souza** and **Senator Winder** discussed the possibility of the rising cost of workers' compensation rising and if surrounding states have had any increase in expenses. **Senator Winder** stated there was not a significant impact.

Senator Lakey stated he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. He stated he was a member of the Board of the State Insurance Fund. **Senator Lakey** and **Representative Erpelding** discussed using the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) as a tool to diagnose PTSD. They determined that it was very hard to predict whether there would an increase in workers' compensation costs.

PRESENTATION: **Representative Erpelding** pointed out there has to be clear and convincing evidence which indicates that the PTSI was caused by an event or events arising out of, and in the course of, the first responder's employment. He reported that if someone was hired who already had PTSD, the State has established a secondary injury fund (fund). The fund would take care of this issue. He stated the idea was to have those who suffer from PTSD be treated and remain at work. **Representative Erpelding** noted that the first responder is examined and subsequently diagnosed with PTSI by a psychologist, a psychiatrist duly licensed to practice in the jurisdiction where treatment is rendered, or a counselor trained in PTSI. He referred to the definition of a first responder in the bill on page 2, line 35 (4) (b), which is all predefined in code. This is a critically important bill.

DISCUSSION: **Senator Lakey** queried if first responders would have to use sick leave or personal time off during treatment. **Representative Erpelding** explained if a first responder uses sick leave or vacation time for PTSI, it is considered personal time off. However, the goal is to keep the first responder on the job as much as possible.

Senator Souza asked if there were counselors in firehouses now. She stated she supported the legislation, but there are difficult situations that occur; many first responders have buried emotions and concerns, which takes a serious emotional toll on families. She pointed out there was a need for counseling and debriefing on an ongoing basis. **Representative Erpelding** affirmed there are resources available.

Chairman Patrick stated he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. **Chairman Patrick** noted that he is an advisory member of the Idaho Industrial Commission (IIC).

Senator Thayn remarked this proposed bill does not cover all who may suffer from PTSD. **Representative Erpelding** indicated there is a population of first responders who see a preponderance of traumatic injury. There is a sunset clause in this bill that expires in four years. Any reference to PTSD was removed from law in 1990. He stated he hoped to make this bill applicable to all in the future. Now is the time to introduce that to this population and demonstrate it will not be costly.

Senator Guthrie referred to the letter from Mayor Darin Taylor, City of Middleton (Attachment 1) and wondered if the bill could have a negative effect in addressing increased liability for the employer after the employee comes back to work. He queried if this diagnosis follows the employee. **Representative Erpelding** said he would defer to Rob Shoplock, Executive Vice President of the Professional Firefighters of Idaho (PFI) and Battalion Chief of the Eagle Fire Department, to explain during testimony how those who are struggling are handled.

TESTIMONY:

Patrick McDonald, former Idaho State Representative, testified in support of the bill. He reported he was in law enforcement for 44 years. He taught stress management and remarked that if PTSD is not treated it becomes worse. He outlined the symptoms. He emphasized a horrific incident is a shock to the conscious mind and is tremendously debilitating. However, PTSD is treatable.

Mr. Shoplock, PFI, testified in support of this legislation. He cited a catalyst behind this legislation started with the alarming number of suicides nationwide. A recent survey published in the *Journal of Emergency Medical Services*, found first responders were ten times more likely to commit suicide. Last year, 103 firefighters and 140 police officers committed suicide, which is triple the number of officers that were shot in the line of duty. He stated the study also suggests that the numbers may actually be 60 percent higher due to the lack of reporting from agencies over the last year in Idaho.

Mr. Shoplock stated first responders are more likely to be exposed to highly stressful situations throughout the course of employment when compared to an average employee across all occupations. The State of Texas concluded that there was no significant fiscal impact on local government relating to workers' compensation for similar legislation.

Mr. Shoplock indicated if there is any avenue to obtain help for first responders for mental injuries on the job, it is the responsibility of the employer to make sure help and assistance is given.

Dennis Doan, Boise City Fire Department (department) Chief, testified in support of the bill. He reported he has been trying to get coverage under workers' compensation for first responders since 1994. PTSD should be covered. He said that after an event, his department has a stress debriefing team available to help.

Darrel Enderin testified in support of the bill. He said his son, Matthew, who was a police officer and suffered from PTSD, committed suicide at the age of 40 on September 22, 2018. He remarked that the stigma of PTSD needs to be removed. First responders are protected with the proper equipment, but their minds are not protected. He said his son did not have to die if he had received treatment.

Darin Taylor, Mayor, City of Middleton, referred to his letter (Attachment 1), and asked for guidance to employers of first responders in order to plan staffing and budgeting.

DISCUSSION:

Senator Burgoyne and **Mr. Taylor** discussed impairment of a first responder whether it was PTSD or a back or knee injury. **Senator Souza** remarked she did not agree with Senator Burgoyne and that PTSD is different than a back injury; it cannot be measured as easily. **Senator Souza** stated PTSD must be treated with ongoing counseling in firehouses and police stations to discuss issues and to convince those employees to make an appointment with a professional. That takes a very assertive person and one of the hardest things to do is to admit there is a problem. She asked Mayor Taylor if there was a process in place during the interview that evaluates the stability of the applicant. **Mr. Taylor** replied in the affirmative, but explained there are not routine evaluations of employees during the period of employment. **Senator Burgoyne** remarked this bill does not create the injury, but rather the work creates the injury. Employers cannot escape the responsibility of dealing with these injuries.

- TESTIMONY:** **Lisa Johnson**, M. A., Counselor, testified in support of this bill and stated she specializes in PTSD and works with first responders. PTSD is highly treatable and it is much better for an employee to stay at work and receive support from fellow workers. There is an entire population who is not covered under workers' compensation for this disorder.
- DISCUSSION:** **Senator Lakey** and **Ms. Johnson** discussed whether it was harmful for PTSD sufferers to stay at work, the treatment involved, and whether the condition is curable. **Ms. Johnson** indicated it is possible to have a rapid remission of symptoms with the proper therapy. She uses cognitive behavioral therapy along with other methods. A PTSD employee needs more than one session, due to the challenge of continually being exposed to scenarios beyond the ordinary.
- TESTIMONY:** **Jeff Fanter**, Chief Deputy Coroner, Ada County Coroners and State Association of Coroners, testified in support of the bill and asked that coroners be added to this legislation due to the nature of their jobs.
- Darby Weston**, West Ada County Paramedics, testified in support of the bill. He related a story about a paramedic who responded to a car accident where the victim died. He realized the victim was the three-year old he met growing up who lived just over the fence. He was so traumatized that he left the Emergency Medical Services (EMS) and committed suicide within the year. He remarked if personnel are being exposed to these types of incidents on a continual basis, they need to be treated. Any time there is an event, a follow-up with a counselor is required. There is a peer support team who has been trained to help PTSD sufferers get help and remove the stigma.
- MOTION:** **Senator Thayne** moved to send **S 1028** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Ward-Engelking** remarked the legislators may want to add coroners in the future.
- 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



CITY OF MIDDLETON

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February 7, 2019

Idaho Senate
Commerce & Human Resources Committee
Boise, Idaho

RE: SB1028 Post-traumatic Stress Injury

Dear Committee Members:

When considering the above-referenced proposed legislation, please provide guidance to employers of first responders so we can plan staffing and budget accordingly.

Is an impairment rating part of treatment for a post-traumatic stress injury?

When hiring a first responder, which impairment rating renders a candidate unable to perform the job ... 5%, 10%, 15% and higher?

Can an employer legally require PTSI impairment rating information on a job application?

What is a reasonable treatment period after which an employer can terminate employment if the first responder is not released as fit-for-duty following a post-traumatic stress injury?

Sincerely,

Mayor Darin Taylor
(208) 697-4354

dtaylor@middletoncity.com

Attachment 1

2-7-19



CITY OF MIDDLETON

P.O. Box 487, 1103 W. Main Street, Middleton, ID 83644
208-585-3133 Fax (208) 585-9601
citmid@middletonidaho.us
www.middleton.id.gov

January 24, 2019

Re: Proposed Amendments to Idaho Code 72-451, Post-traumatic Stress Injury

Committee Members:

The City of Middleton recognizes the stress and trauma associated with first-responder emergency service occupations, and supports competent treatment of mental injuries as well as physical injuries. Middleton opposes the proposed amendments to Idaho Code 72-451 adding post-traumatic stress injury (PTSI) as written because of the following concerns. The City has seven patrol officers (includes chief).

Hypothetically, the proposed legislation passes as drafted and four Middleton officers respond to an incident and are traumatized. The officers and city file a workers compensation claim as required by the State Insurance Fund. The officers are treated.

1. Does treatment consist of time off-duty, modify/light duty, or active patrol?

If treatment is time from work, then the city immediately reduces patrol because it cannot afford to hire additional officers (\$100,000 salary and benefits per officer annually) or pay overtime, or work remaining officers in that distressed condition for an undetermined treatment period without significantly increasing the risk of an officer mistake or burnout.

If modified-duty means not patrolling, then Middleton does not have enough light-duty work for four officers. If treatment is concurrent with active patrol, then is the officer working while vulnerable?

2. When treatment is complete, is a permanent impairment rating determined?

Does a post-PTSI impairment rating of anything other than zero expose the city to civil liability if the officer experiences a re-occurrence or flashback? Does the city hire an officer that received an impairment rating after a previous PTSI?

3. What is the city's responsibility if an officer experiences cumulative PTSIs?

The city requests the legislation include additional sideboards before being adopted.

Sincerely,

A handwritten signature in blue ink that reads "Darin Taylor". The signature is written in a cursive, flowing style.

Darin Taylor, Mayor
208-697-4354

dtaylor@middletoncity.com

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 12, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes of January 29, 2019	Senator Ward-Engelking
<u>DOCKET NO. 17-0211-1801</u>	Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compensation - Self-Insured Employers	Patti Vaughn, Benefits Administration Manager, Idaho Industrial Commission
<u>17-0211-1802</u>	Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compensation - Self-Insured Employers	Patti Vaughn
<u>12-0109-1801</u>	Rules Pursuant to the Idaho Credit Code	Anthony Polidori, Consumer Finance Bureau Chief, Idaho Department of Finance
<u>12-0110-1801</u>	Rules Pursuant to the Idaho Residential Mortgage Practices Act	Anthony Polidori
<u>12-0111-1801</u>	Rules Pursuant to the Idaho Collection Agency Act	Anthony Polidori
<u>S 1007</u>	Relating to Collection Agencies	Anthony Polidori
<u>S 1013</u>	Relating to the Heating, Ventilation, and Air Conditioning Board	John Nielsen, Plumbing HVAC Program Manager, Idaho Division of Building Safety
<u>S 1014</u>	Relating to Plumbing and Plumbers	John Nielsen
<u>S 1037</u>	Relating to Engineers and Surveyors	Tom Judge, Deputy Director, Surveying, IPELS

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

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 12, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayne, Souza, 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 Ward-Engelking** moved to approve the Minutes of January 29, 2019. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Agenbroad to introduce the presenters for the rules.

DOCKET NO. 17-0211-1801 **Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compensation - Self-Insured Employers.** **Patti Vaughn**, Benefits Administration Manager, Idaho Industrial Commission (IIC), stated the IIC wanted to clarify the new electronic requirements for self-insured employers on the submission of First Reports of Injury and Claims for Benefits, notices of occupational illness, and fatalities. The changes also eliminate the need to submit paper documentation in support of electronically-filed initial payments. There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION: **Chairman Patrick** moved to approve **Docket No. 17-0211-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 17-0211-1802 **Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Security for Compensation - Self-Insured Employers.** **Patti Vaughn**, Benefits Administration Manager, Idaho Industrial Commission (IIC), stated the IIC wanted to authorize and set forth conditions for the use of electronic fund transfers and access cards to pay benefits due to injured workers by self-insured employers. There is no fiscal impact to the General Fund. Negotiated rulemaking was conducted. There is no incorporation by reference.

MOTION: **Senator Souza** moved to approve **Docket No. 17-0211-1802** with the deletion of section 051.08.e, subsection ii. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Chairman Patrick** queried if rejection of part of the rule was acceptable to Ms. Vaughn. **Ms. Vaughn** affirmed that without a requirement, injured workers who could not understand the language, could opt out. **Senator Souza** stated the motion was made due to confusion on the part of the Committee as to the impact the phrase, "any other language common to the claimant population," would have upon non-English speaking injured workers. She remarked clarifying language should be submitted by the IIC for next year. **Ms. Vaughn** asserted the IIC would work on improving the language.

VOICE VOTE: The motion to approve **Docket No. 17-0211-1802** with the deletion of section 051.08.e, subsection iii, carried by **voice vote**.

DOCKET NO. 12-0109-1801 **Rules Pursuant to the Idaho Credit Code.** **Anthony Polidori**, Consumer Finance Bureau Chief, Idaho Department of Finance (IDOF), stated the pending rule references incorporated federal laws and regulations that are included within the federal Consumer Credit Protection Act (CCPA) and the implementation of regulations. There is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because the rule is simple in nature, as it merely references incorporated federal laws and regulations.

Mr. Polidori reported Idaho Code § 28-41-302 defines the federal CCPA and its implementing regulations for incorporation into the Idaho Credit Code (ICC) and the rules pursuant to the ICC. This proposed rule incorporates by reference the laws and regulations that are included within the federal CCPA, promoting consistency in state and federal consumer financial services laws so that Idaho consumer financial service providers are not faced with an untenable requirement of complying with conflicting state and federal laws.

DISCUSSION: **Senator Burgoyne** and **Mr. Polidori** discussed the negotiated rulemaking process, if there was any opposition to the change in the rule, and the notification process. **Senator Lakey** commented he was concerned negotiated rulemaking was not conducted. He asked Mr. Polidori to clarify the phrase "as amended to include January 1, 2019." **Mr. Polidori** indicated the intent was not to include amendments after that date.

Senator Burgoyne commented the lack of negotiated rulemaking puts consumers in a worse situation. **Mr. Polidori** referred to the synopsis (Attachment 1) given to the Committee and remarked the changes provide greater consumer protection.

Senator Lakey queried if the updates were needed for compliance or for any regulatory requirement at the federal level. **Mr. Polidori** remarked the updates are required for consumer finance licensees. Without these updates, consumer finance licensees are currently operating under two different standards regarding disclosures and the treatment of credit balances, whether it is under the Truth in Lending Act or the transmission of electronic funds under the regulation. Under certain circumstances, consumer financial lenders in the State have to comply to bring the State on a par with federal law requirements.

Chairman Patrick commented this rule would pertain to institutions more than the general public and he did not see a problem with the lack of negotiated rulemaking.

MOTION: **Senator Guthrie** moved to approve **Docket No. 12-0109-1801**. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senator Burgoyne** stated he would be voting nay since there was no negotiated rulemaking conducted.

Senator Guthrie commented the lack of negotiated rulemaking could be driven by cost and the Committee should find out the costs involved. **Vice Chairman Agenbroad** stated he agreed.

VOICE VOTE: The motion to approve **Docket No. 12-0109-1801** carried by **voice vote**. **Senators Burgoyne** and **Lakey** asked to be recorded as voting nay.

DOCKET NO. 12-0110-1801 **Rules Pursuant to the Idaho Residential Mortgage Practices Act. Anthony Polidori**, Consumer Finance Bureau Chief, Idaho Department of Finance (IDOF), reported the proposed rule updates the versions of the federal laws and regulations that are incorporated by reference, as well as standards adopted by a nationally-recognized organization (Truth in Lending and Regulation Z, Real Estate Settlement Procedures Act and Regulation S, and the Nationwide Multi-State Licensing System and Registry (NMLS) Policy Guidebook).

Mr. Polidori reported there is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because the rule is simple in nature. Idaho Code § 23-31-102 defines Regulations X and Z, the Real Estate Settlement Procedures Act, and the Truth in Lending Act for incorporation into the Idaho Residential Mortgage Rules (RESPA) pursuant to that Act. He stated this proposed rule promotes consistency in state and federal mortgage-related laws so that Idaho mortgage licensees are not faced with an untenable requirement of complying with conflicting state and federal laws. **Mr. Polidori** stated that furthermore, the proposed rule updates references to the NMLS Policy Guidebook, promoting consistency in nationwide licensing standards for mortgage licensees.

DISCUSSION: **Senator Souza** and **Mr. Polidori** discussed a conflict of dates in the rule and when the last update was done. **Mr. Polidori** indicated the last adoption of a pending rule related to these updates was in March 2018. He explained that during the last legislative session, references were updated to Truth In Lending in implementing regulations and RESPA regulations, which is the reference to March 2018. The NMLS Policy Guidebook has not been updated or modified since 2012. **Mr. Polidori** stated the IDOF is seeking to update the reference to February 2, 2018. In essence, the IDOF has updated references to those federal laws and regulations through January 1, 2019 into the NMLS Policy Guidebook through February 2, 2018.

MOTION: **Senator Souza** moved to approve **Docket No. 12-0110-1801**. **Senator Thayn** seconded the motion.

DISCUSSION: **Senator Lakey** commented he would be voting nay as he was concerned about incorporating into rule a guidebook that has not been updated since 2012. **Senator Burgoyne** stated he would be voting nay as he voiced an additional concern of incorporating an entire federal act into Idaho rule. **Senator Thayn** remarked he was comfortable with the motion since the rule addresses interstate commerce. **Chairman Patrick** stated he agreed with Senator Thayn and that the State has to comply with federal rules.

VOICE VOTE: The motion to approve **Docket No. 12-0110-1801** carried by **voice vote**. **Senator Lakey** asked to be recorded as voting nay. Senator Burgoyne did not vote nay.

**DOCKET NO.
12-0111-1801**

Rules Pursuant to the Idaho Collection Agency Act. Anthony Polidori, Consumer Finance Bureau Chief, Idaho Department of Finance (IDOF), reported the proposed rule incorporates by reference federal law (the federal Fair Debt Collection Practices Act) (FDCPA). There is no fiscal impact to the General Fund. Negotiated rulemaking was not conducted because the rule is simple in nature as it updates references to incorporated federal law. **Mr. Polidori** stated Idaho Code § 26-2229A incorporates the provisions of the FDCPA. This proposed rule incorporates the federal FDCPA by reference, promoting consistency in state and federal debt collection laws, so that Idaho collection agency licensees are not faced with an untenable requirement of complying with conflicting state and federal laws.

MOTION:

Senator Guthrie moved to approve **Docket No. 12-0111-1801**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.

S 1007

Relating to Collection Agencies. Anthony Polidori, Consumer Finance Bureau Chief, Idaho Department of Finance (IDOF), stated the purpose of this legislation is to add a provision to allow collection agencies to collect incidental charges included in the contract between the creditor and the debtor. Additionally, the legislation makes this licensing process for collection agents, debt counselors, credit counselors, and credit repair entities similar to other entities licensed by the IDOF by requiring the use of a nationwide system of licensing and allowing for reinstatement of expired applications. **Mr. Polidori** remarked that further, the legislation creates the Idaho Collection Agency Recovery Fund (ICARF) to allow reimbursement to persons to whom the Idaho courts award actual damages resulting from acts constituting violations of this chapter by a collection agent, debt counselor, credit counselor, or credit repair organization. To pay for the ICARF, all licensees will have to pay a fee of \$250 for home office locations and \$100 for each branch office. To offset the ICARF fee, the bonding requirement for licensees is eliminated. Finally, the legislation provides for the creation, by rule, of an industry advisory board.

Mr. Polidori reported the proposed legislation does not alter license application fees collected by the IDOF from licensees or license applicants and does not alter the application of the licensing requirements to entities conducting covered activities in Idaho. There is no fiscal impact to the General Fund.

Mr. Polidori referred to a letter received from Supreme Court Senior Judge Barry Wood, Deputy Administrator of the Courts (Attachment 2). He stated the comments address section 12 of the bill, page 8, lines 5 and 6, indicating where the existing language of the printed bill could be modified to provide greater clarity for plaintiffs and to reasonably reduce the obligations of a plaintiff seeking remediation through the proposed ICARF. **Barry Wood**, Idaho Supreme Court Senior Judge, stated the IDOF concurs and requests that page 8 be amended, beginning on line 5 and continuing through line 7 to read, "judgment has been entered, and execution returned unsatisfied, may file a verified claim and the same case in which the underlying judgment was entered."

DISCUSSION: **Senator Burgoyne** remarked he objected to a provision at the bottom of page 4, line 47, "expressly authorized by the agreement creating the debt, except as otherwise prohibited by law," noting collection agencies can charge fees and expenses, which would conflict with laws already enacted. **Senator Burgoyne** stated he would like to have his concerns addressed and have the courts approve the fees. **Mr. Polidori** commented the IDOF has moved away from what currently exists in the Fair Debt Collection Practices Act (FDCPA), which allows a collection agency to collect anything that is contracted between the client and its consumers. A restriction is placed by stating it must be a lawful provision and expressly provided for in the contract. Collection agencies would still be required to make certain that any provision that they are collecting is lawful. **Mr. Polidori** stated that consumers and clients, or the creditor clients, would be allowed to contract for the services and the potential interest or penalties that may be lawful into the contract. The collection agency may collect on behalf of the creditor client, but not on behalf of the agency. The collection agency still imposes a restriction on the amount any collector can retain for collections under the Idaho Collection Agency Act (ICAA). Only 50 percent of the amounts collected can be retained regardless of whether there is a provision within the contract, where more money could be collected for fees.

TESTIMONY: **John Watts**, Idaho Collection Agency, testified in support of the bill and remarked he has had discussions with the IDOF on many of the changes. There were no objections to sending this bill to the 14th Order. He stated the electronic registry process is good. Having an advisory committee is a few decades overdue. The ICARF will affect different agencies.

DISCUSSION: **Vice Chairman Agenbroad** asked Mr. Watts about the costs and fees associated with this bill. **Mr. Watts** reported it depended on the size of the agency and he could not give a precise number. He stated there were no comments received.

TESTIMONY: **Barry Wood**, Idaho Supreme Court Senior Judge, voiced a concern about the mechanics of this statute. He referred to Idaho Code § 12-2655, subpart 5, and remarked if there is a final judgment in court, by the statute of limitations, this action has to be brought within a year. He remarked the courts are trying to figure out if this is analogous to an execution situation on a final judgment where a judgment creditor is trying to levy on property when a third party claims it does not belong to the judgment debtor. He queried if this intended to be that sort of reform or if this was a whole new lawsuit, as pointed out in his letter (Attachment 2). **Judge Wood** noted Idaho Code § 26-2255, line 3, page 8, may actually create a kind of trap for the unwary. He reported the trap is in the findings of violations of this chapter. The big struggle the Supreme Court has had to recently overrule Idaho Code § 26-2254 in what is not a judgment, and what is not in a judgment. He questioned if these particular findings are not in that judgment, which is now by definition final, then are the users of this precluded from bringing the action. He pointed out these issues for clarification purposes.

Mr. Polidori commented the intent was to limit remediation to those acts that constitute violations of the ICAA. **Mr. Polidori** stated it is not intended as a recovery fund to remediate people who have been harmed solely by a violation of the FDCPA, but pointed out that a violation of the FDCPA through incorporation by reference in the ICAA would be in essence a violation of the code.

MOTION: **Senator Guthrie** moved to send **S 1007** to the 14th Order of Business for possible amendment. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1013

Relating to the Heating, Ventilation, and Air Conditioning (HVAC) Board. **John Nielsen**, Plumbing HVAC Program Manager, Idaho Division of Building Safety (IDBS), reported Idaho Code § 54-5004 currently requires one HVAC Board member to be an HVAC specialty contractor. The IDBS and the HVAC Board have had difficulty filling this position with a qualified, willing, specialty contractor. This proposal will require one HVAC Board member to be a representative of the HVAC industry, instead of an HVAC specialty contractor. This change will allow the HVAC Board and IDBS to adequately fill this position, while ensuring this position represents the interests of the HVAC industry.

Mr. Nielsen stated here is no fiscal impact to the General Fund and the HVAC Board. This legislative proposal will change the composition of the HVAC Board, but will not change the costs of conducting HVAC Board meetings.

DISCUSSION:

Vice Chairman Agenbroad asked for clarification on whether this change precluded a contractor from applying for this position. **Mr. Nielsen** said it was permissible for a contractor to apply.

MOTION:

Senator Martin moved to send **S 1013** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1014

Relating to Plumbing and Plumbers. **John Nielsen**, Plumbing Heating, Ventilation and Air Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (IDBS), reported this legislative proposal will require and clarify that all plumbing contractors must be qualified journeymen. **Mr. Nielsen** remarked that requiring all plumbing contractors to be qualified journeymen will ensure plumbing contractors are qualified in the technical aspects of the trade and increase the quality of plumbing work. There is no fiscal impact to the General Fund and the Idaho Plumbing Board (IPB) fund. This legislative proposal will change administrative requirements associated with obtaining a plumbing contractor's license, but will not change the costs of issuing licenses.

DISCUSSION:

A discussion ensued between **Senator Lakey** and **Mr. Nielsen** regarding whether this legislation requires plumbing contractors to be qualified journeymen. **Senator Lakey** commented it seemed appropriate for someone to operate a business who is not a qualified journeyman, but who employs a qualified journeyman. **Mr. Nielsen** remarked the current plumbing contractor's test requires contractors to be journeymen. **Senator Lakey** inquired if this qualification was in rule and not in the law. **Mr. Nielsen** stated the requirement is in rule and that in order to take the contractor's test, the candidate must be a journeyman plumber for 2-1/2 years. **Senator Lakey** commented it was appropriate for someone to own a business and employ a journeyman and he was more inclined to follow the statute, rather than the rule.

Senator Souza remarked she agreed with Senator Lakey. She stated there are people who are very good at their craft and are not good at running a business. She queried why someone would be prohibited from owning a plumbing business, who was not a qualified journeyman, but who was a good business person. **Vice Chairman Agenbroad** remarked there is a conflict with statute and rule and queried what the advantage of this legislation was. **Mr. Nielsen** replied the IDBS Board wanted this legislation because they thought a contractor should be a licensed journeyman.

Senator Burgoyne inquired as to the definition of a plumbing contractor and how the term was used. **Mr. Nielsen** reported a plumbing journeyman contractor's license is issued to an individual and not a business.

MOTION: **Senator Guthrie** moved to hold **S 1014** in Committee. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

S 1037 **Relating to Engineers and Surveyors.** **Tom Judge**, Deputy Director, Surveying, Idaho Professional Engineers and Land Surveyors (IPELS), indicated the authorization to access and locate necessary property corners and evidence related to boundaries enables land surveyors to conduct a proper survey. Surveys supported by all of the required evidence protect real property rights.

Mr. Judge noted the objective of the proposal is to provide reliable access to private land for professional land surveyors and their subordinates when conducting land surveys, thereby putting the property rights of all owners on a level field. Land surveyors must access private property to correctly determine property boundaries. The gathering of many forms of evidence, such as survey marks, fences, streams, or other features, some a mile or more away, are necessary to complete a survey. Under current law, only select surveyors working on limited government surveys have a legal right to enter private property. Private surveyors are required to obtain permission from the owner of every property they enter. That permission is revocable at any time without warning. This adds significant cost and even prevents completion of many projects. Refusal to grant access causes turmoil if boundary determinations are made without access to the required evidence. Owners and businesses suffer loss when surveys are cancelled midstream or elevated to the courts. The IPELS Board is asking for reasonable access with sensible controls that protect owners and businesses.

Mr. Judge stated there is no fiscal impact to the General Fund or the dedicated fund of the IPELS Board, as the amendment addresses the manner in which private land surveyors conduct surveys and does not adversely impact the regulation of professional land survey licenses.

Mr. Judge reported that while working through the process, some language for an amendment was provided which is modeled after Oregon law. He commented there will be a more definitive provision that written notice be sent out ahead of time with the requirement to cooperate with businesses and agricultural operations, so there is no disruption. At this point, **Mr. Judge** stated this is a bill that grants the necessary authority to protect businesses and owners. One person cannot stop the IPELS from doing a survey.

DISCUSSION: **Senator Agenbroad** questioned special rights for railroads and inquired as to why this was in the legislation. **Mr. Judge** replied that historically, railroads asked for this language and indicated they would oppose the legislation if the wording was not added. Additional restrictions were placed on the railroad by the Department of Homeland Security, which makes accessing railroad property problematic. He explained that if a railroad has an easement, that easement is honored.

Senator Burgoyne remarked if this bill is going to the amending order, he requested sections 3 and 4 be reworked relating to disruption of operations. Land surveyors have to be able to access the property. Property owners could regulate a time so surveyors could schedule operations around the timeframe. **Senator Burgoyne** pointed out the best way to post a notice is to post it on the property in question, but that could be considered trespassing. He suggested the wording has to be such that a notice could be posted, but the surveyor would not be considered trespassing.

Senator Guthrie referred to line 11 of the bill and queried if the language should include all subordinates or if that was implied. **Mr. Judge** advised the language in the statute is now for federal surveyors and that may not be an issue. He indicated he would talk with the attorney for the IPELS Board about that subject. **Senator Guthrie** inquired as to the punitive element if the landowner refused to allow a surveyor on the property. **Mr. Judge** stated he would try to get the sheriff and police to try to help the landowner through the process.

Michael Kane, Attorney, IPELS Board, stated there is no penalty. He remarked this bill tries to carry forward what the coalition put together last year.

TESTIMONY:

Aaron Rush, professional land surveyor, testified in support of the bill and the amendment. He remarked access to property is essential. Owners of all four corners of the property have to consent to a survey.

MOTION:

Senator Thayn moved to send **S 1037** to the 14th Order of Business for possible amendment. **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 2:58 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

**12.01.09 – Rules Pursuant to the Idaho Credit Code
Docket No. 12-0109-1801**

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the materials of the differences between the materials previously incorporated by reference in statute that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here:

IDAPA 12 – DEPARTMENT OF FINANCE

12.01.09 - RULES PURSUANT TO THE IDAHO CREDIT CODE

The Idaho Credit Code (ICC), Idaho Code § 28-41-101, *et seq.*, incorporates the provisions of the federal Consumer Credit Protection Act (FCCPA), codified in 15 U.S.C. Chapter 41. Furthermore, Idaho Code § 28-41-302 defines the FCCPA, as amended to and including January 1, 2005, or subsequent date if so defined by administrative rule. Section 28-41-302 further includes within the definition of the FCCPA regulations issued pursuant to the act, as amended to and including January 1, 2005, or subsequent date if so defined by administrative rule.

The definition of the FCCPA has not been updated since 2005 to reflect subsequent amendments to the law or its implementing regulations. Therefore, the Idaho Department of Finance is incorporating by rule the definition of the FCCPA and its implementing regulations, as amended to and including January 1, 2019, to ensure that state law and rules are consistent with federal law and regulation.

The following summarizes changes to the FCCPA and its implementing regulations since January 1, 2005:

- **The Truth in Lending Act** – 15 U.S.C. 1601, *et seq.*
 - Public Law 115-174, May 24, 2018 – Amended through the “Economic Growth, Regulatory Relief, and Consumer Protection Act” to exempt certain rural transactions from appraisal requirements; to exclude manufactured home retailers from the definition of mortgage originators; to reduce requirements on certain smaller financial institutions relative to loan origination, loan servicing, and the escrow of funds for certain purposes; and to reduce restrictions on consummating transactions where a creditor offers lower annual percentage rate loan options.
 - Public Law 114-94, December 4, 2015 – Amended to expand lending practices in rural areas.

Polidori
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attachment 1

provisions of the regulation. This summary does not include the date of each of those annual adjustments.

- January 1, 2019 – Effective date of annually adjusted thresholds for transactions subject to appraisal requirements, pursuant to Regulation Z.
- June 1, 2018 – Effective date of amendments related to when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith.
- April 1, 2018 – Effective date of amendments related to prepaid accounts that adopted provisions specific to such accounts, and generally expanded Regulation Z's coverage to overdraft credit features that may be offered in conjunction with prepaid accounts.
- April 19, 2018 – Effective date of amendments to certain mortgage servicing rules relating to the timing for servicers to transition to providing modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case.
- October 19, 2017 – Effective date of amendments correcting typographical errors and official commentary regarding servicers' ability to remove certain language in periodic statement sample forms; correcting sample periodic statement forms that servicers may use for certain consumers in bankruptcy; and providing official commentary relating to the bankruptcy periodic statement exemptions and modified statements.
- October 10, 2017 – Effective date of amendments adopting informal guidance and making additional clarifications and technical amendments. Additionally, creates tolerances for certain estimates, adjusts a partial exemption mainly affecting housing finance agencies and nonprofits, extends coverage of the TILA-RESPA integrated disclosure requirements to all cooperative units, and provides guidance on sharing the integrated disclosures with various parties involved in the mortgage origination process.
- April 28, 2016 – Adopts as final, Regulation Z as issued pursuant to Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- March 31, 2016 – Effective date of amendments relating to the eligibility of certain small creditors, operating in rural or underserved areas, to originate balloon-payment qualified mortgages and balloon-payment high cost mortgages; and, provide an exemption from the requirement to establish an escrow account for higher-priced mortgage loans and the determination of whether an area is rural.
- February 2, 2016 – Effective date of technical corrections to rules related to the “Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act

- Require that creditors determine a consumer will have the ability to repay a loan (ATR requirements);
 - Provide an exemption from ATR requirements for certain creditors and for certain loan products;
 - Define a qualified mortgage, distinguishing certain loans made and held in portfolio by small creditors, and to provide a definition of a qualified mortgage for loans with balloon features;
 - Modify requirements regarding the inclusion of loan originator compensation in the points and fees calculation.

- 2012 – 2013 – Regulation Z was amended by rulemakings during this period to provide for integrated disclosures in mortgage lending transactions, establishing definitions for qualified mortgage loans, establishing standards for determining a consumer’s ability to repay, and providing various servicing standards in relation to mortgage lending. Several of these provisions were subsequently modified or corrected through rulemakings that took effect, as noted above, on January 10, 2014.

- December 30, 2011 – Adopted Regulation Z as a rule issued by the Bureau of Consumer Financial Protection, re-codified as 12 CFR 1026.

- 2005 – 2011 – Prior to December 2011, Regulation Z, as it pertains to non-depository financial institutions, was implemented by the Federal Reserve Board (Board). During the period between 2005 and 2011, the Board made several amendments to Regulation Z, to include:
 - Amendments to prohibit payments to loan originators, based on the terms or conditions of the transaction other than the amount of credit extended; to prohibit any person other than the consumer from paying compensation to a loan originator in a transaction where the consumer pays the loan originator directly; and, to prohibit loan originators from steering consumers to consummate a loan not in their interest based on the fact that the loan originator will receive greater compensation for such loan;
 - Amendments to require a purchaser or assignee of a mortgage loan account to provide certain disclosures to borrowers;
 - Amendments to implement provisions related to appraisal independence in transactions involving a consumer’s principal dwelling;
 - Amendments to require creditors extending consumer credit secured by real property or a dwelling to disclose certain summary information about interest rates and payment changes, in a tabular format, as well as a statement that consumers are not guaranteed to be able to refinance their transactions in the future;
 - Amendments to rules related to disclosures required during the life-cycle of an open-end (non-mortgage) credit account;
 - Clarifying amendments to rules effective as of December 10, 2007;
 - Eliminating certain non-mandatory rules related to the electronic delivery of disclosures.

- Public Law 110-161, December 26, 2007 – Amended to provide for the reporting of information, by a consumer reporting agency, relative to the issuance of government-sponsored charge cards.
- Public Law 109-351, October 13, 2006 – Amended to provide for the reporting of information, by a consumer reporting agency, to the Federal Deposit Insurance Corporation and National Credit Union Administration in the exercise of their duties.
- Public Law 109-177 & Public Law 109-178, March 9, 2006 – Amended through USA Patriot Act Reauthorizing Amendments to exclude from consumer reports, certain information regarding persons who have been the subject of investigation by the Federal Bureau of Investigations and other government agencies.

➤ **Regulation V** – 12 CFR 1022, *et seq.*

- September 21, 2018 – Adopted as interim rules, model forms for the Summary of Consumer Identity Theft Rights and the Summary of Consumer Rights as required by a new provision of the Fair Credit Reporting Act, added by the Economic Growth, Regulatory Relief, and Consumer Protection Act.
- April 28, 2016 – Adopted as final, Regulation V as issued pursuant to the Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- December 30, 2011 – Adopted Regulation V as a rule issued by the Bureau of Consumer Financial Protection, re-codified as 12 CFR 1022.
- 2005 – 2011 – Prior to December 2011, Regulation V, as it pertains to non-depository financial institutions, was implemented by the Federal Reserve Board (Board). During the period between 2005 and 2011, the Board made several amendments to Regulation V, to include:
 - Adopting rules to implement the Fair and Accurate Credit Transactions Act of 2003;
 - Adopting rules requiring financial institutions to develop written identity theft prevention programs;
 - Adopting rules regarding risk-based pricing notices to consumers when the creditor uses a consumer report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor.

➤ **Equal Credit Opportunity Act** – 15 U.S.C. 1691, *et seq.*

- Public Law 111-203, July 21, 2010 – Amended to include a definition for the Bureau of Consumer Financial Protection (Bureau); to designate the authority of

the Bureau; to provide for reporting with respect to administration of the Act by the Bureau; and to designate the authority of the Federal Trade Commission.

- Public Law 109-351, October 13, 2006 – Amended to provide for certain notice requirements; to distinguish legal pleadings from initial communications regarding a debt; to provide an exception from the Act for certain bad check enforcement programs operated by private entities.

➤ **Electronic Funds Transfer Act.** As set forth in 15 U.S.C. 1693, *et seq.*

- Public Law 111-203, July 21, 2010 – Amended to include a definition for the Bureau of Consumer Financial Protection (Bureau); to designate the authority of the Bureau; to include remittance transfers under the coverage of the Act and establish requirements regarding remittance transfers; and to designate the authority of other agencies or instrumentalities of the United States.
- Public Law 112-216, December 20, 2012 – Amended to limit the fee disclosure requirement for an automated teller machine to the screen of that machine.

➤ **Regulation E.** As set forth in 12 CFR 1005, *et seq.*

- April 1, 2018 – Effective date of amendments to provide for certain estimates in disclosures related to remittances when a transfer provider cannot determine the exact amount required to be disclosed.
- April 28, 2016 – Adopts as final, Regulation E issued pursuant to the Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- October 28, 2013 – Effective date of amendments to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution; to make optional the requirement to disclose taxes collected by a person other than the remittance transfer provider and to provide notice the recipient may receive less than the disclosed total due to the fees and taxes for which disclosure is now optional; to revise the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information.
- March 26, 2013 – Effective date of amendments to implement Public Law 112-216 regarding disclosures required for automated teller machines.
- February 7, 2013 - Issuance of official interpretations; amended to enhance consumer protections, through disclosure requirements, error resolution practices, and cancellation rights, to consumers who send remittance transfers to other consumers or businesses in a foreign country; adopted a safe harbor with respect to the phrase “normal course of business” in the definition of “remittance transfer provider,” which determines whether a person is covered by the rule; revises rules

Linda Kambeitz

From: Barry Wood <bwood@idcourts.net>
Sent: Monday, February 11, 2019 4:45 PM
To: Senator Jim Patrick; Linda Kambeitz; anthony.polidori@finance.idaho.gov
Cc: Barry Wood; Jason Spillman; Jennifer Carr; Michael Mehall
Subject: SB 1007 (2019)

Mr. Polidori,
Chairman Patrick,

We have had the opportunity to review Senate Bill 1007 which is assigned to the Senate Commerce & Human Resources Committee.

I write to ask that you please consider revisions to one sentence so to avoid ambiguity that may impact the courts and public.

Section 12, bottom of page 7, and page 8 and top half of page 9 of the printed bill. The proposed new section 26-2255 states that a "person who obtains against a collection agent. . . a money judgment in an Idaho court, which judgment includes findings of violations of this chapter . . . after final judgment has been entered, execution returned unsatisfied, and the judgment has been recorded, **may file a verified claim with the court in which the judgment was entered . . .**

It is unclear from this language whether the intent of the statute is to:

- a. require that the plaintiff / victim initiate an entirely new lawsuit in the same court which would require additional filing fees with the court, assignment of a new case number, and the assignment of the matter to a judge (potentially a different judge from the one that presided over the original action against the collection agent);
OR
- b. require that the plaintiff / victim initiate their verified claim for recovery from the recovery fund in the existing case that already granted the judgment in the original action against the collection agent.

If the intent is option a, perhaps language such as the following would be preferable:: "may initiate a new separate lawsuit with a verified claim filed with the court in which the underlying judgment was entered, . . ."

If the intent is option b, then perhaps "may file a verified claim in the same case in which the underlying judgment was entered, . . ."

We also ask that you consider whether it is necessary to include the requirement that the plaintiff / victim record the judgment before pursuing recovery from the Collection Agency Recovery Fund. It is not necessary to record a judgment to begin execution on a judgment (garnishments of wages, attach bank account, attach property). The purpose behind recording a judgment is to secure a lien on property. The language of 26-2255, however, imposes upon the victim the requirement that they record the judgment before they may proceed with the claim for payment from the fund. (*See relevant portion of 26-2255 below.*)

If it is the intent of the legislature to impose the requirement that the plaintiff / victim both attempt to execute and record for the purpose of securing a lien, then the language is clear as written.

If it is the intent of the legislature to only ensure that the plaintiff / victim make a reasonable effort to collect before turning to a claim for payment from the fund, then the language "and the judgment has been recorded" should be removed.

Thank you for your consideration. If you have any questions regarding the above please do not hesitate to contact us.

Senior Judge Barry Wood
Deputy Admin. Director of the Courts
Idaho Supreme Court Building
(208) 334-2246
bwood@idcourts.net

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 14, 2019

SUBJECT	DESCRIPTION	PRESENTER
HONORING OF PAGE AND INTRODUCTION OF NEW PAGE:	Sebastian Griffin	Chairman Jim Patrick
MINUTES APPROVAL:	Minutes of January 31, 2019	Senator Grant Burgoyne
<u>S 1070</u>	Relating to Disability Retirement	Senator Todd Lakey
<u>S 1053</u>	Relating to the Barbers and Cosmetology Services Act	Senator Jim Guthrie
<u>S 1006</u>	Relating to the Uniform Securities Act	Jim Burns, Securities Bureau Chief, Idaho Department of Finance
<u>S 1012</u>	Relating to Public Works Contractors	Patrick Grace, Damage Prevention and Public Works Contractor's Licensing, Idaho Division of Building Safety
<u>S 1036</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace

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

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 14, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, and Burgoyne

ABSENT/ EXCUSED: Senator Ward-Engelking

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.

HONORING OF PAGE AND INTRODUCTION OF NEW PAGE: **Chairman Patrick** honored Page Sebastian Griffin. He asked him to tell the Committee what he learned. **Mr. Griffin** stated he planned on going on his Latter-day Saints mission to San Bernardino, California. Following that, he hopes to attend Brigham Young University and major in finance. He plans on pursuing a master's in business administration and a law degree. He presented all of the senators with a framed picture, mentioned what he learned from each Senator, and thanked the Committee for making being a page such a great experience.

The new page will be introduced at the next meeting.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of January 31, 2019. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1070 **Relating to Disability Retirement.** **Senator Lakey** stated this legislation clarifies an ambiguity regarding individuals who have received a disability retirement in the Public Employee Retirement System of Idaho (PERSI) for medical or other reasons. PERSI is currently applying the statute in a way that prohibits individuals who are deemed "disabled" under PERSI from volunteering or working for nominal compensation. Being able to volunteer or perform nominal work is beneficial to the community and to these individuals, especially for those who may have a terminal illness. This amount of allowable compensation mirrors similar provisions from other states. This also provides that the PERSI Fund will be protected, as any amount earned from the nominal employment is deducted from the benefit paid to the individual by PERSI.

Senator Lakey reported this legislation is not anticipated to have a significant fiscal impact. Any nominal compensation received from employment is deducted from the benefit paid under PERSI. It is not anticipated to have an impact on participation in PERSI disability retirement. There is the potential for minor increases and decreases in participation, but those net impacts cannot be estimated at this time.

DISCUSSION: **Senator Burgoyne** thanked Senator Lakey for this bill and said he honors those who want to work and who may want to work themselves off of disability.

TESTIMONY: **Tony Smith**, Idaho Public Employees' Association, testified in support of the legislation and thanked the Committee.

Nick Schlader, retired police officer, testified in support of the legislation. He reported he was diagnosed with stage four cancer and was medically retired from the police force. He stated he went through numerous clinical trials in search of a cure. He contacted PERSI and asked if he could coach basketball part-time. He was told he could work up to 20 hours per week and not lose his disability. He lost his medical retirement in January 2018 because PERSI did not ultimately approve his part-time job. He was not able to work which was a massive financial burden. He subsequently was hospitalized for 21 days and not expected to live. Eventually he got better. He came to an agreement with PERSI to have his benefits reinstated. In order to reinstate his benefits, he had to sign a letter saying he was at fault and knew he was at fault. He met Senator Lakey who decided to sponsor this bill. He stated he did not want this to happen again to anyone else. He remarked it was only fair that an opportunity for a second chance be provided without sacrificing the entire benefit.

DISCUSSION: **Senator Souza** thanked Mr. Schlader for his testimony. She inquired as to whether the benefits were returned retroactively after being withheld. **Mr. Schlader** reported the \$15,000 was not retroactive. His dream is to help others so they can fight and beat cancer as he has. The way the law is currently written, he cannot help people. **Senator Lakey** requested this bill be sent to the 14th order for revision.

MOTION: **Senator Guthrie** moved to send **S 1070** to the 14th Order of Business for possible amendment. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

S 1053 **Relating to the Barbers and Cosmetology Services Act.** **Senator Guthrie** reported this legislation will provide for apprenticeship opportunities for barbering and barber-styling professions. These changes will be consistent with the changes made for cosmetology during the last session. This bill provides a different pathway to licensure for barbers by completing hours under the guidance of a licensed barber, as opposed to a school. An apprentice must be in compliance with the Idaho Bureau of Occupational Licenses (IBOL) Board's rule and have immediate personal supervision by a licensed instructor. Documentation of hours and the type of instruction must be recorded on a daily basis.

TESTIMONY: **John Foster**, representing the Opportunity Solutions Project, which is the lobbying arm of the Foundation for Government Accountability, testified in support of this bill. He commented this bill removes barriers to entering the workforce. This bill makes it easier for those who want to work.

MOTION: **Vice Chairman Agenbroad** moved to send **S 1053** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1006

Relating to the Uniform Securities Act. **Jim Burns**, Securities Bureau Chief, Idaho Department of Finance (IDOF), reported this legislation is needed to adapt the statute to numbering changes in federal statute. It is also needed to retain authority for the IDOF to continue to require certain securities issuer filings and fees that were affected by federal preemption and rules passed by the U. S. Securities and Exchange Commission (Attachment 1).

Mr. Burns indicated if the IDOF is unable to effect this statutory change, the IDOF estimates that approximately 300 issuer filings may be affected, resulting in an estimated loss of revenue in an amount not greater than \$20,000. Failure to make this change may also deny Idahoans ready access to information regarding the issuers.

MOTION:

Vice Chairman Agenbroad moved to send **S 1006** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1012

Relating to Public Works Contractors. **Patrick Grace**, Idaho Damage Prevention (IDP) and Public Works Contractor's Licensing (PWCL), Idaho Division of Building Safety (IDBS), reported Idaho Code § 54-1908 requires the Idaho Public Works Contractor's License Board (IPWCB) to "hold not less than four regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July, and October." Many state boards are only required to hold two meetings per year. The IPWCB has found it difficult to coordinate four meetings per year within strict timeframes, especially in years in which the IPWCB must hold additional special meetings for statutorily mandated purposes. Additionally, Idaho Code § 54-1905 requires the IPWCB to be composed of eight members. Idaho Code § 54-1908 requires four members for a quorum of the IPWCB.

Mr. Grace stated this legislation will change the number of meetings the IPWCB must hold from four per year to two per year and remove the requirement that the IPWCB meet by the fifteenth day of specific months. This legislation will also change the quorum requirement from four members of the IPWCB to a majority. Changing the quorum requirement will help ensure the actions of the IPWCB are more representative of the desires of the entire IPWCB and make it less likely that the IPWCB's votes will result in a tie.

There will be a positive fiscal impact to the IDP and the PWCL Fund.

MOTION:

Senator Thayn moved to send **S 1012** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

DISCUSSION:

Vice Chairman Agenbroad queried if the original language was outlined as to when the IPCWB met. He remarked the language does not specify meeting dates. He queried what if the IPCWB decided to have two meetings back-to-back. **Mr. Grace** remarked practices are not going to change. Sometimes there was nothing on the agenda, but the IPCWB met anyway. **Vice Chairman Agenbroad** inquired as to how many members it takes to have a majority. **Mr. Grace** said five members had to be present.

VOICE VOTE:

The motion to send **S 1012** to the floor with a **do pass** recommendation carried by **voice vote**.

S 1036

Relating to Underground Facilities Damage Prevention. Patrick Grace, Idaho Damage Prevention (IDP) and Public Works Contractor's Licensing (PWCL), Idaho Division of Building Safety (IDBS), reported that under Idaho Code § 55-2211(1), the administrator of the IDBS recommends and the IDP Board imposes training or civil penalties for those who violate Idaho Code § 55-22. This process has proven to be inefficient for the alleged violator, complainant, and IDBS. This legislation will give the administrator authority to impose training or civil penalties and the IDBS authority to hear appeals regarding training or civil penalties imposed. These changes will streamline this process and align it with the process for other chapters administered by the IDBS.

Mr. Grace reported Idaho Code § 55-2211 provides authority for the IDP Board to impose training or civil penalties and enhanced civil penalties for subsequent violations with facility damage. However, Idaho Code § 55-2211 does not allow passage of a certain amount of time to "reset" the violation record of a violator unless the violations involve facility damage. Further, Idaho Code § 55-2211 does not provide penalties for third, fourth, and fifth violations without facility damage.

Mr. Grace stated that Idaho Code § 55-2211(1) allows the IDP Board to impose training for a first violation and civil penalties for further violations. However, this same section of code only allows an alleged violator to contest the imposition of civil penalties. Because the imposition of training potentially affects an alleged violator's future liability under the statute, due process requires that alleged violators be given the ability to also contest the imposition of training. This legislation will allow an alleged violator to contest both training and civil penalties.

Mr. Grace indicated there will be a positive fiscal impact to the IDP Board fund created by more efficient processing of civil penalties.

DISCUSSION:

Senator Guthrie commented he could not support the bill because it appears there is a fine levied before the appeal hearing. Additionally, the fine could be increased after the hearing. **Mr. Grace** stated an appeal bond was the only thing requested, or a fine of \$200 or less prior to the appeals hearing. **Senator Burgoyne** stated he agreed with Senator Guthrie and he voiced a concern over whether the fee was constitutional prior to the hearing. He remarked he has never seen a case where the appellant can be punished with a harsher fine after an appeal. He said he was not in support of the bill.

Mr. Grace explained the IDP Board stated the requirement to pay the fine or do the training were options. The IDP Board believed the IDBS should have authority to complete the discipline. Currently, that is the way other trades appellate processes work and the IDBS borrowed the language. **Senator Guthrie** remarked there should be a window of time to appeal. **Senator Lakey** stated he was surprised to hear this practice is in place with the other boards.

Senator Burgoyne noted the way the language is written in this bill, the alleged violator pays, but if the appeal is won, the alleged violator can receive a refund. If the alleged violator does the training while waiting for the appeal, there is no way to recover the time spent on training.

MOTION:

Senator Burgoyne moved to hold **S 1036** in Committee. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:29 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary



SB-1006

Proposed Amendment to the Idaho Uniform Securities Act (2004)

Legislative Need - The proposed legislation is needed to adapt the statute to numbering changes in federal statute and to **retain authority** for the Department to maintain certain securities issuer filings and fees that were partially affected by federal preemption. Some of this preemption was accomplished through rulemaking conducted by the U.S. Securities & Exchange Commission (SEC) that was later upheld after various legal challenges. **Idaho receives nearly 10,000 issuer filings each year, yet more than 98% of these issuers are not Idaho-based.**

“Regulation A” Issuer Filings – The SEC updated and expanded Regulation A, an existing exemption from federal registration for smaller issuers of securities. The implementation of the new SEC rules preempted state regulators from any substantive review of Tier 2 issuer offering documents, while retaining state authority to require the filing of offering documents and the collection of filing fees as previously allowed.

The proposed statutory amendment will provide more direct authority for the Department to continue to require and accept those filings and fees associated with federal Regulation A Tier 2 offerings.

Private Placement Changes – Since the states and the SEC share regulatory authority, most states harmonize their statutes and regulations with the federal provisions. Idaho had adapted its law and regulations to recognize federal Regulation D offerings in Idaho by requiring issuer filings that are identical to those made with the SEC.

The proposed legislation is required to adapt the statute to numbering changes in federal laws and regulations allowing the Department to more directly retain its authority to require issuer filings and fees.

Amendment Seeks Filing Requirement Flexibility (see lines 9-10 Page 2) - Federal preemptive rulemaking has essentially moved one type of issuer offering (Regulation A) from a state registration category to a “notice filing” category. In order to better adapt to this development and prospective future federal changes, *we seek flexibility to match issuer document filings at the federal level with our state requirements.* We anticipate that this authority will be rules based, *but still subject to legislative oversight.*

Who will be affected without this change - Without the benefit of this statutory change, Idaho citizen investors will have less access to information regarding the affected classes of securities issuers and the Department will be unable to vet this class of issuers to identify statutorily disqualified persons attempting to offer and issue securities to Idaho residents. Issuers that may no longer need to make certain notice filings with the Department will effectively save \$50 per issuer filing (approximately 400-500 per year).

Fiscal impact of legislative idea - If the Department is unable to effect this statutory change, the Department estimates that approximately 400-500 issuer filings may be affected resulting in an estimated loss of revenue in an amount not greater than \$25,000. Failing to make this change may also deny Idahoans (and the Department) of ready access to information regarding said issuers.

2/14/19
attachment 1
51006 Burns

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 19, 2019

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION OF NEW PAGE:	Alex Knowlton	Chairman Patrick
MINUTES APPROVAL:	Minutes of February 5, 2019	Vice Chairman Agenbroad
	Minutes of February 7, 2019	Senator Martin
<u>S 1048</u>	Relating to Credit Unions	Ryan Fitzgerald, Northwest Credit Union Association
<u>S 1011</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety
<u>S 1073</u>	Relating to Underground Facilities Damage Prevention	Patrick Grace
<u>H 3</u>	Relating to Occupational Licensing	Rob McQuade, Attorney, Idaho Bureau of Occupational Licenses
<u>H 4</u>	Relating to Occupational Therapists	Rob McQuade

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

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 19, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Thayn

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.

INTRODUCTION OF NEW PAGE: **Chairman Patrick** introduced Page Alex Knowlton and asked him to tell the Committee what high school he attended and to provide some background. **Mr. Knowlton** said he was a junior at Cole Valley Christian High School. He told the Committee he works at the Hideaway Bar and Grill where he cooks, preps, waits tables, and fills in as manager. He loves to stay busy, work, and help people. He stated he wants to go to college and take political science, law, business, and marketing courses.

MINUTES APPROVAL: **Vice Chairman Agenbroad** moved to approve the Minutes of February 5, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Martin moved to approve the Minutes of February 7, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1048 **Relating to Credit Unions. Ryan Fitzgerald**, Northwest Credit Union Association, reported this legislation provides technical corrections and further amends the internal governance provisions of the Idaho Credit Union Act that were amended in 2018. This legislation amends the requirements for annual credit union membership meetings in order to allow greater access for members to be involved in the governance of their credit union; makes a technical correction to the different options a credit union supervisory committee can utilize in verifying member accounts; adds technical descriptors to further define the Capital, Assets, Management, Earnings, Liquidity, and Sensitivity (CAMELS) rating system; and amends bond requirements to clarify what each credit union must carry in order to insure against risk versus optional coverages that may also be purchased by the credit union.

TESTIMONY: **John Watts**, Idaho Central Credit Union, testified in support of this bill. He remarked there would be a positive effect on credit union members by holding meetings throughout the State.

MOTION: **Senator Souza** moved to send **S 1048** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1011

Relating to Underground Facilities Damage Prevention. Patrick Grace, Damage Prevention (DP) and Public Works Contractor Licensing (PWCL), Idaho Division of Building Safety (IDBS), reported that according to Idaho Code, the owner or owner's agent of identified but unlocatable underground facilities, shall locate and mark the underground facilities in accordance with the best information available to the owner of the underground facilities and with "reasonable accuracy." **Mr. Grace** defined an identified but unlocatable underground facility as "an underground facility which has been identified but cannot be located with reasonable accuracy." This legislative proposal will correct this discrepancy and require locatable underground facilities to be marked with reasonable accuracy. **Mr. Grace** reported if underground facility owners and excavators who observe, suffer, or cause damage to an underground facility, or observe, suffer, or cause excavator downtime, shall report this information to the DP Board. This can cause duplicative reporting of the same incident by both underground facility owners and excavators. The DP Board believes underground facility owners are best situated to report damage to underground facilities. Excavators are better suited to report downtime they suffer due to violations of code.

Mr. Grace stated it was necessary to define the terms for "hand digging," "soft digging," and "locator." These definitions will be added in this legislative proposal.

DISCUSSION:

Senator Souza inquired if the homeowner or the municipality have liability when a municipality has old underground facilities that are unlocatable. **Mr. Grace** stated the owner of the facility is ultimately responsible for any excavation, notifying the dig line, notice of excavation, locating, and finding the underground facility.

MOTION:

Vice Chairman Agenbroad moved to send **S 1011** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1073

Relating to Underground Facilities Damage Prevention. Patrick Grace, Damage Prevention (DP) and Public Works Contractor Licensing (PWCL), Idaho Division of Building Safety (IDBS), commented Idaho Code § 55-2205(2) requires underground facility owners to locate and mark all underground facilities. Some underground facility owners are also end-user consumers of utility services or commodities. Service laterals are underground facilities located in public rights-of-way or utility easements. End users do not have operational control of, or the expertise or equipment to locate or mark service laterals, despite owning them, because the laterals are in rights-of-way of utility easements. **Mr. Grace** noted this legislation will exempt end-users from the requirement to locate and mark service laterals. This legislative proposal will also require underground facility owners to locate and mark service laterals. He referred the Committee to language that was added on page 4, lines 17 through 20 of the bill.

DISCUSSION:

Senator Souza queried if the city or the homeowner would be liable if there was damage to a lateral at the right-of-way. **Mr. Grace** reported that currently, the property owner is responsible. **Senator Souza** and **Mr. Grace** discussed liability for property owners and municipalities when underground facilities are not marked. **Mr. Grace** deferred to the DP Board Chairman, Jeffrey Diehl.

TESTIMONY:

Jeffrey Diehl, Chairman, DP Board, reported that when an underground facility cannot be reasonably located, the responsibility would be on those who are hired to do the work. The liability for repairs are not dealt with in this bill.

DISCUSSION: **Senator Souza** commented she has heard from constituents who have had to pay for extensive lateral repair when there was a break in a lateral that went through their property and through to the street. She remarked the municipality should have some responsibility for repairs rather than placing all of the burden on the homeowner. **Mr. Diehl** remarked those parameters lie outside of this proposed bill.

Senator Burgoyne commented his understanding is that his water and sewer lines extend to a certain point in the street, which is owned by local government. He inquired as to who is responsible for location of the portion of the underground facility that he does not own. **Mr. Diehl** indicated the proposed language in the bill indicates the end-user is not responsible for marking the utilities, but the burden of proof is on the owner of the facility. He remarked the burden of responsibility is on the owner or operator, which is identified in the bill and different from the end-user.

Senator Guthrie queried what distinguishes a locater. **Mr. Diehl** commented a locater is defined in **S 1011**. The burden falls on the operator and through industry best practices. He stated a locater can be outsourced. **Senator Guthrie** and **Mr. Diehl** discussed horizontal locators and depth of digging.

Senator Burgoyne and **Mr. Diehl** discussed indemnity claims, civil penalties, and excavator's rights for damages. **Mr. Diehl** commented the DP Board does not have jurisdiction over any of these types of things and they are handled in court.

MOTION: **Senator Burgoyne** moved to send **S 1073** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senator Souza** stated she will not oppose the bill, but is uncomfortable that it does not place enough responsibilities on the municipalities to locate underground facilities. **Senator Burgoyne** stated he agreed.

VOICE VOTE: The motion to send **S 1073** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 3 **Relating to Occupational Licensing.** **Rob McQuade**, Attorney, Idaho Bureau of Occupational Licenses (IBOL), stated the Idaho Licensing Board of Professional Counselors (ILBPC) and Marriage and Family Therapists (MFT) is proposing to move educational program and practicum requirements for licensing professional counselors and licensed professional clinical counselors from statute and allow the IBOL to establish these requirements in rule. This would allow the IBOL to approve educational programs based on accreditation standards, regardless of the specific number of semester hours required, and create more flexibility for practicum requirements. These changes will reduce barriers to licensure and provide more flexibility to applicants.

Mr. McQuade reported the IBOL is proposing an increase in the statutory fee caps for the original license, application, endorsement, and renewal fees from \$100 to \$175; to remove confusing language regarding the payment of fees; and to enable the IBOL to refund an original license fee to an applicant when a license is not issued. The IBOL's dedicated fund would have a reduction of approximately \$700 per year, based on the number of licenses that were not issued in the last year.

DISCUSSION: In answer to questions by Senator Guthrie, **Mr. McQuade** yielded to Roger Hales, Legal Counsel, IBOL. **Mr. Hales** and **Senator Guthrie** discussed the IBOL's budget, including expenses, revenue, and reserves. They discussed how the IBOL may have to increase fees in the future.

Senator Burgoyne observed barriers to licensure were removed, but stated he did not know if it was better to have licensure requirements in rule rather than in statute.

MOTION: **Senator Martin** moved to send **H 3** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 4 **Relating to Occupational Therapists. Rob McQuade**, Attorney, Idaho Bureau of Occupational Licenses (IBOL), advised the Idaho Occupational Therapy Licensure Board (IOTB) is proposing legislation to remove outdated language that limits the number of times an applicant may fail the national examination; clarify language regarding inactive licensure and address the procedure to put a license into inactive status, to renew, and to return the license to active status; eliminate the detailed requirements for the rules prescribing the practices and procedures for supervision; modernize and standardize language regarding renewal and reinstatement and continuing education; and remove the requirement for biennial proof of continuing education.

MOTION: **Senator Lakey** moved to send **H 4** to the floor with a **do pass** recommendation. **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 2:32 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #2
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 21, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Minutes of February 12, 2019	Senator Guthrie
APPROVAL:	Minutes of February 14, 2019	Senator Lakey
<u>S 1069</u>	Relating to Insurance Dental Services	Elizabeth Criner, Idaho State Dental Association Senator Mary Souza
<u>S 1097</u>	Relating to Insurance - Clinical Trials	Caiti Bobbitt, Kootenai Health
<u>H 27</u>	Relating to Insurance - Dollar Rounding	Dean Cameron, Director, Idaho Department of Insurance
<u>H 108</u>	Relating to the Idaho Building Code Act	Brody Aston, Idaho Association of Building Officials
<u>H 7</u>	Relating to the Age Requirement - Nursing Home Administrator Licensure	Roger Hales, Legal Counsel, Idaho Bureau of Occupational Licensing
<u>H 46</u>	Relating to Certified Shorthand Reporters	Rob McQuade, Legal Counsel, Idaho Bureau of Occupational Licensing

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

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 21, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of February 12, 2019. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Senator Lakey moved to approve the Minutes of February 14, 2019. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1069

Relating to Insurance Dental Services. **Elizabeth Criner**, Idaho State Dental Association, reported this legislation will clarify current language in Idaho Code regarding dental insurance contracts and the treatment of covered and non-covered services. **Ms. Criner** outlined the changes, which included coverage of services, such as waiting periods, deductibles, co-payments, and coinsurance. **Ms. Criner** stated the bill adds language to ensure that a dental plan contracting with a dentist cannot set the rate for a procedure that is not covered as a service in the dental plan. She explained the bill provides language to further define when a service or procedure that has been covered becomes a non-covered service. There are two parts: 1.) the dental plan is no longer liable to pay for all or part of that service; and 2.) a patient has received dental services and procedures that equal 100 percent of the capped benefit or twice the value of the capped benefit. At that time, a dentist may choose to continue to provide services according to a plan's fee schedule or the dentist may charge the patient the lowest rate that a non-insured patient would be charged.

Ms. Criner noted the bill ensures there is discussion and notice between a dentist and patient when the patient's services become non-covered services due to the patient exceeding the capped benefit of 100 percent. Additionally, the language in the bill is intended to provide a reasonable time period for dental plans to make these changes to their contracts and would apply to any dental plan or contract which is issued after December 31, 2019.

Ms. Criner stated dental plans have capped benefits and once the benefit is exhausted, the plan has no responsibility to ensure the dentist is paid. In addition, when a patient gets to the point of exceeding their benefit of 100 percent, the patient usually asks the dentist to allow monthly payments, which the dentist has to finance.

DISCUSSION: **Vice Chairman Agenbroad** inquired how many patients would exceed the capped benefit. **Ms. Criner** responded only 7 percent fall into that category. **Vice Chairman Agenbroad** queried when a good time would be to discuss fees with a dentist. **Ms. Criner** reported benefits are capped and patients do not have unlimited benefits. Dentists want to be reimbursed.

Senator Thayn inquired as to what happened when costs exceed 100 percent. **Ms. Criner** commented the dentist has to make a choice whether to stay with a fee schedule or give a discount.

TESTIMONY: **Dr. Steve Bruce**, Doctor of Dental Surgery (D.D.S.), Idaho State Dental Association, testified in support of the bill and addressed Vice Chairman Agenbroad's questions. He remarked more and more patients exceed their benefits. He outlined the process for finding out benefits, discounts, and exceeding capped benefits. **Dr. Bruce** stated there are contracts between dentists and dental insurance companies, which are different than medical insurance contracts. Once an insurance company has paid the cap, they are done for the calendar year. The dentist bears the risks and costs. Uninsured cash-paying patients are paying more than they should and those with dental plans pay less. This bill ensures the dentist will have the right to work with a patient without being dictated by a dental plan.

DISCUSSION: **Senator Guthrie** and **Dr. Bruce** discussed average normal fees and the maximum a non-insured patient is charged.

Senator Lakey and **Dr. Bruce** discussed negotiating a service split and having a conversation about costs with the insurance company.

Senator Souza remarked that Senator Burgoyne was in support of the bill and referenced his email (Attachment 1). She commented Senator Burgoyne had an interesting idea, which was a concern about having the negotiated insurance rate in place past the 200 percent rate of service. He was concerned that normal rates would have to be charged for someone who has no insurance, and who would ultimately pay more. **Dr. Bruce** stated that was cost shifting. The Preferred Provider Organization (PPO) discounted negotiated fees have not changed in ten years. That is not fair to those who do not have insurance.

Chairman Patrick queried if this bill will help remedy the situation. **Dr. Bruce** remarked this bill gives dentists the ability to discuss costs with patients more freely. Currently, he does not have the choice to negotiate his fee. This bill is fair and equitable.

TESTIMONY: **Dr. Whitney Bator**, D.D.S., Idaho State Dental Association, testified in support of the bill. She acknowledged she has no choice but to participate in insurance. This bill gives her the right to negotiate fees with a patient.

Dr. John Hisel, D.D.S., Idaho State Dental Association, testified in support of the bill. He reported the cost of doing business is substantially different and dental plans do not pay any more than they did 30 years ago. He stated it was fair that a dentist could provide services at a discounted rate, which he did not have to negotiate. Cost shifting does happen, which squeezes people out of the market. Only 50 percent of the population has dental coverage. This bill provides protection to both the patient and the dentist.

DISCUSSION: **Senator Guthrie** stated that once the \$1,000 cap is reached, it is up to the patient to pay. He inquired what percent was bad debt. **Dr. Hisel** indicated bad debt was not separated out, but he thought approximately 20 percent was written off, which included bad debt, as well as the discount through the insurance company.

MOTION: **Senator Souza** moved to send **S 1069** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senator Martin** remarked he perceives this is a bill for the benefit of the dentist and queried how it was a benefit to customers. **Ms. Criner** explained this is a bill for the doctor/patient relationship. The patient may need care after benefits are exhausted, but they can pay over time. Dentists are hoping to reduce cost shifts for those who do not have insurance.

Senator Thayn stated his son is a dentist and declared a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

VOICE VOTE: The motion to send **S 1069** to the floor with a **do pass** recommendation carried by **voice vote**.

S 1097 **Relating to Insurance - Clinical Trials.** **Caiti Bobbitt**, Kootenai Health, reported the purpose of this legislation is to ensure that routine medical care costs will be covered by a patient's insurance plan while a patient is enrolled in a clinical trial. Clinical research is an essential element in advancing health care, improving patient outcomes, and reducing the cost of health care. Some insurance companies will see that a patient is enrolled in a clinical trial and deny all of their coverage. That means the emergency visit, the scans leading up to the diagnosis, the surgery itself, and the hospital stay will all be left for the patient to pay out-of-pocket. That is typically very costly. Sponsors of clinical trials are required by federal law to cover all research-related costs in a clinical trial. This legislation ensures that health benefit plans cover the costs for the same standard of care a patient would receive if they were not in a clinical trial, while not being required to pay for the costs of the trial itself.

Ms. Bobbitt remarked the trial sponsor will pay for the cost of the trial and care following the procedure. If the clinical trial sponsor is asking for additional care which a patient would not normally receive, the sponsor of the trial will pay for it. Most insurance providers already abide by this practice, but it is not known up front whether or not a claim will be denied. Patients with certain insurance providers are often not approached to participate in trials for fear their claim will be denied.

DISCUSSION: **Senator Guthrie** queried if complications resulting from clinical trials were covered by insurance. **Ms. Bobbitt** stated the insurance provider would not be liable.

TESTIMONY: **Sandra Albritton**, Researcher, Kootenai Health, testified the insurance company would not be liable.

MOTION: **Senator Souza** moved to send **S 1097** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 27 **Relating to Insurance - Dollar Rounding.** **Dean Cameron**, Director, Idaho Department of Insurance (IDOI), reported that currently, insurance companies report and pay premium tax, including cents. Considerable time and effort is spent by staff for insurance companies and the IDOI to prepare and audit tax returns and other reports to the specific penny. These efforts are not commensurate with the value gained by this level of detail. This legislation would require premium tax returns from insurers to be rounded up or down to the nearest whole dollar. A similar change is made to require surplus lines brokers to report and pay tax rounded up or down to the nearest whole dollar. **Mr. Cameron** noted there is potential for a relatively small fiscal impact to the General Fund. A calculation for tax year 2017 with premium tax collections of \$89,396,602.45 show an additional \$22.68 in revenue using the nearest whole dollar (49/50) rounding. He remarked there is now an electronic version, which is being used by insurance companies to report and pay premium tax. This bill will save hours for the IDOI staff and the carrier's staff.

- DISCUSSION:** **Senator Thayn** and **Mr. Cameron** discussed premium tax returns from insurers being rounded up and down.
- MOTION:** **Senator Guthrie** moved to send **H 27** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
- H 108** **Relating to the Idaho Building Act. Brody Aston**, Idaho Association of Building Officials, remarked the purpose of the proposed change to Idaho Code § 39-4108 is to allow a period of up to six months after being hired for a building inspector or plan examiner to obtain the International Code Council (ICC) certifications. This legislation provides for situations when a certified building inspector must review and approve adverse actions deemed necessary by the newly-hired unlicensed building inspector. There was no opposition from any stakeholders.
- DISCUSSION:** **Vice Chairman Agenbroad** inquired how long it would take to become certified. **Mr. Aston** reported most study for the test two months and that the six months allowed to take the test should be ample time.
- Senator Thayn** queried how much basic training had to occur to become certified. **Mr. Aston** commented a building contractor or architect could be certified and hired.
- MOTION:** **Senator Martin** moved to send **H 108** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.
- H 7** **Relating to the Age Requirement - Nursing Home Administrator Licensure. Roger Hales**, Legal Counsel, Idaho Bureau of Occupational Licensing (IBOL), indicated the Idaho Board of Examiners of Nursing Home Administrators (IBENHA) is proposing legislation to specify the timeframe of nursing home administrators-in-training programs and to reduce the age requirement for licensure from 21 to 18 years of age. These changes will clarify the requirements of the nursing home administrators-in-training program and reduce a barrier to employment. There was no opposition from stakeholders and no impact to the General Fund.
- DISCUSSION:** **Vice Chairman Agenbroad** discussed the age requirement with **Mr. Hales. Mr. Hales** explained the IBOL decided the age requirement of 21 years old was not necessary if other qualifications were met. They discussed extenuating circumstances and that an individual could submit a request to the IBOL.
- Senator Thayn** remarked it was interesting that an 18-year-old would meet the requirement of having a bachelor's degree and qualify for employment. **Mr. Hales** remarked that typically a degree would be required and it would be a rare individual who could graduate at the age of 18 or 20.
- MOTION:** **Senator Guthrie** moved to send **H 7** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.
- H 46** **Relating to Certified Shorthand Reporters. Rob McQuaid**, Legal Counsel, Idaho Bureau of Occupational Licensing (IBOL), stated the Idaho Certified Shorthand Reporters Board (ICSRB) is proposing legislation to add the Certified Realtime Captioner (CRC) exam to the list of ICSRB approved exams, to allow online exam testing, and to provide a pathway to licensure by endorsement for applicants that have passed a national exam and have been working for three of the past five years in another state. This legislation will provide more flexibility to applicants and licensees, provide additional pathways to licensure for out-of-state applicants, and enhance portability between Idaho and other states. There was no opposition from stakeholders. There is no impact to the General Fund.

DISCUSSION: **Senator Lakey** inquired as to the use of the word "may" instead of "shall" in the bill. **Mr. McQuade** said the IBOL Board has committed to acquiring more licensees and using "may" gives the IBOL Board the ability to stop and do some more investigating.

Senator Martin stated his daughter-in-law was a court reporter and he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

MOTION: **Senator Martin** moved to send **H 46** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

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

Senator Patrick
Chair

Linda Kambeitz
Secretary

Linda Kambeitz

From: Senator Grant Burgoyne
Sent: Thursday, February 21, 2019 10:30 AM
To: SenateCommerceHumanResources
Subject: Senate Bill 1069



Idaho State Senate

Legislature.Idaho.Gov

Dear Fellow Committee Members,

I have a bill up in the House Business Committee at the same time as our committee will be considering Senate Bill 1069 today. As I cannot be with ~~you~~ I cannot be with you for the consideration of SB 1069, I wanted to share my thoughts on it with you.

I support SB 1069 for a number of reasons, but the primary one is that permitting dental insurers to require that dentists participating in their insurance plans charge their insureds less than the dentists would otherwise charge for noncovered dental services, forces people without dental insurance to subsidize those who have it. This is because dentists forced to charge below market rates to those with insurance must make up the difference somehow, and the only way to do that is to charge those who have no dental insurance more. Although I am sure there are some without dental insurance who are able to pay these somewhat inflated rates, many do not have the good jobs that provide dental insurance, cannot afford to purchase it, and therefore struggle to afford dental care or go without. For these people to be forced into paying inflated dental charges as a subsidy to those with insurance is not only unfair, it is poor public policy because it leads to reduced dental health in the uninsured population. When dental health problems become medical problems a certain percentage of the cases will be Medicaid covered, and others may result in medical indigency claims. Either way the taxpayer will lose. That is why I support SB 1069 .

Grant

Senator Grant Burgoyne

Attachment 1

SB 1069

2/21/19

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, February 26, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of February 19, 2019	Senator Thayn
<u>H 5</u>	Relating to Occupational Licensing	Maurie Ellsworth, General Counsel, Idaho Bureau of Occupational Licensing (IBOL)
<u>H 6</u>	Relating to Social Work Licensing	Rob McQuade, Legal Counsel, IBOL
<u>H 71</u>	Relating to Insurance - Accreditation NAIC	Dean Cameron, Director, Idaho Department of Insurance
<u>RS26901</u>	Unanimous Consent Request Relating to Rule Rejection - Idaho Industrial Commission - Docket No. 17-0211-1802, Section 051., Subsection 08.e.ii	Vice Chairman Agenbroad
<u>RS26902</u>	Unanimous Consent Request Relating to Rule Rejection - Idaho Industrial Commission - Docket No. 17-0210-1802, Section 051., Subsection 08.e.ii	Vice Chairman Agenbroad
<u>RS26903</u>	Unanimous Consent Request Relating to Rule Rejection - Plumbing Code, Docket No. 07-0206-1702, Section 11, New Subsection 35	Vice Chairman Agenbroad
JOINT PRESENTATION	Relating to Pharmacy Benefit Managers - With the Senate Health and Welfare Committee	Colleen Becker, National Conference of State Legislators

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

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 26, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

Chairman Patrick remarked that **H 71** was being moved up on the agenda, due to a prior obligation on the part of Director Cameron.

MINUTES APPROVAL: **Senator Thayn** moved to approve the Minutes of February 19, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 71 **Relating to Insurance - Accreditation National Association of Insurance Commissioners (NAIC).** **Dean Cameron**, Director, Idaho Department of Insurance (IDOI), affirmed this legislation is based on 2014 amendments to the NAIC System Regulatory Act Number 440. These model law amendments will be required for accreditation of the IDOI by the NAIC. **Mr. Cameron** noted accreditation is important to maintain consistent and fair regulation of insurers. Accreditation is also necessary to retain carriers domiciled in Idaho, thereby benefitting consumers. The goal of this legislation is to provide authority to the Director of the IDOI to act as a group-wide supervisor for an internationally active insurance group. **Mr. Cameron** related it is helpful to both insurance companies and their regulator to have one jurisdiction assess the enterprise-wide risks and coordinate group-wide supervision activities for insurance companies or insurance holding company groups. Acquisitions or other changes in a state's domestic insurance industry can occur quickly and change the state's role in overseeing a domestic insurer or their role within the holding company group.

Mr. Cameron reported there is no fiscal impact to the General Fund or any other state fund or expenditure inasmuch as the provisions of this legislation can be reviewed and monitored with the IDOI's current and requested appropriation. Implementation of this legislation will help ensure financial security of any domiciled insurance companies that are members of an internationally active insurance group, thus preventing utilization of the State guaranty funds and a commensurate reduction in premium taxes.

DISCUSSION: **Senator Burgoyne** referred to page 2, line 2 of the bill "to engage in conducting and coordinating group-wide supervision activities" and queried what this meant. **Director Cameron** remarked this is all defined through the NAIC. He pointed out that page 4, subsection 5 outlines some of the duties that would be required of the IDOI Director. **Senator Burgoyne** inquired what the level of supervision was with respect to the people in Idaho. **Director Cameron** explained the supervision would be a linear progression and that did not mean that the IDOI Director would typically run the company.

MOTION: **Senator Guthrie** moved to send **H 71** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 5 **Relating to Occupational Licensing. Maurie Ellsworth**, General Counsel, Idaho Bureau of Occupational Licenses (IBOL), reported the Idaho Board of Chiropractic Physicians (IBCP) is proposing legislation to remove the IBCP's obligation to provide a peer review process intended to review the appropriateness, quality, utilization, and costs of chiropractic services. The IBCP Board has determined that this process is unnecessary and wishes to eliminate this regulation.

Mr. Ellsworth stated there is no impact to the General Fund or the IBOL's dedicated fund because the proposed legislation will not alter the number of IBOL meetings held each year or require more services be provided to the IBCP. The IBCP should save approximately \$1,000 annually as it will no longer be required to provide peer reviews.

DISCUSSION: **Senator Souza** expressed a concern that if the peer review process was eliminated, whether the IBOL would be able to provide oversight and awareness. **Mr. Ellsworth** stated it was not a function of the IBOL. If there is a dispute between a chiropractor and a patient, that could be litigated in court. **Mr. Ellsworth** explained the IBOL review process.

Senator Martin inquired how many times in the past few years violations have been heard by the Peer Review Board (PRB). **Mr. Ellsworth** indicated the PRB has been used only four or five times. He explained the process and reported any member of the public can file a complaint. That complaint is initially reviewed, sent to investigators who talk to the complainant and witnesses, and a report is generated. The IBOL uses individuals who are members of the profession to review the facts and if there is evidence of a violation, more investigation can be done. Ultimately, a case can be sent to a prosecutor.

Senator Burgoyne inquired as to the standard of care required of chiropractors. **Mr. Ellsworth** remarked the Chiropractic Practice Act (Attachment 1) defines the scope of practice. There is an ethical code and standards. Some of the standards need to be updated.

MOTION: **Senator Martin** moved to send **H 5** to the floor with a **do pass** recommendation. **Vice Chairman Agenbroad** seconded the motion. **Senator Burgoyne** remarked he would be voting aye, but he reserved the right to examine this bill and possibly change his vote on the floor of the Senate. The motion carried by **voice vote**.

H 6

Relating to Social Work Licensing. Rob McQuade, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), stated The Idaho Board of Social Work Examiners (IBSWE) is proposing legislation to change the licensee designation that Idaho uses for the initial level of licensure from a Licensed Social Worker (LSW) to the uniform, nationwide designation of Licensed Bachelor Social Worker (LBSW). This change will increase portability of licensure between Idaho and other states.

Mr. McQuade indicated there is no impact to the General Fund or the IBOL's dedicated fund because the proposed legislation will not alter the number of IBOL meetings held each year or require more services be provided to the IBSWE.

MOTION:

Senator Souza moved to send **H 6** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairman Patrick passed the gavel to Vice Chairman Agenbroad.

RS 26901

Unanimous Consent Request Relating to Rule Rejection - Idaho Industrial Commission (IIC) - Docket No. 17-0211-1802, Section 051., Subsection 08.e.ii. Vice Chairman Agenbroad reported this Routing Slip (RS) rejects a certain administrative rule of the IIC, relating to the Workers' Compensation Law - Security for Compensation - Self-Insured Employers. There is no fiscal impact because this section of the rule does not take effect.

UNANIMOUS REQUEST:

Vice Chairman Agenbroad asked for unanimous consent to send **RS 26901** to a privileged committee for a print hearing. There were no objections.

RS 26902

Unanimous Consent Request Relating to Rule Rejection - Idaho Industrial Commission (IIC) - Docket No. 17-0210-1802, Section 051., Subsection 08.e.ii. Vice Chairman Agenbroad reported this Routing Slip (RS) rejects a certain administrative rule of the IIC, relating to the Workers' Compensation Law - Security for Compensation - Insurance Carriers. There is no fiscal impact because this section of the rule does not take effect.

UNANIMOUS REQUEST:

Vice Chairman Agenbroad asked for unanimous consent to send **RS 26902** to a privileged committee for a print hearing. There were no objections.

RS 26903

Unanimous Consent Request Relating to Rule Rejection - Plumbing Code, Docket No. 07-0206-1702, Section 11, New Subsection 35. Vice Chairman Agenbroad reported this Routing Slip (RS) rejects a certain rule of the Idaho Division of Building Safety (IDBS) concerning the Idaho State Plumbing Code. There is no fiscal impact because this section of the rule does not take effect.

UNANIMOUS REQUEST:

Vice Chairman Agenbroad asked for unanimous consent to send **RS 26903** to a privileged committee for a print hearing. There were no objections.

PASSED THE GAVEL:

Vice Chairman Agenbroad passed the gavel to Chairman Patrick.

RECESS:

Chairman Patrick called a recess at 2:04 p.m. in anticipation of the arrival of the Senate Health and Welfare Committee members.

RECONVENED:

Chairman Patrick reconvened the meeting at 2:31 p.m.

**JOINT
PRESENTATION:**

Relating to Pharmacy Benefit Managers - With the Senate Health and Welfare Committee (SHWC). **Colleen Becker**, National Conference of State Legislators (NCSL), provided an overview of Pharmacy Costs & Pharmacy Benefit Managers (PBMs) (Attachment 2) to the Committee and the SHWC. She referred to the flow chart, Pharmacy Supply Chain, and outlined how the drug distribution model worked. **Ms. Becker** defined PBMs and pointed out there are three companies who control most of the market; namely, Express Scripts; Convenience, Value, and Service (CVS) Caremark; and Optimum.

Ms. Becker referred to the slide on spread pricing, which included the average spread by quarter and by drug type for the State of Ohio. She pointed out when Ohio conducted an audit of Medicaid-managed care providers, they discovered that PBMs billed them \$223 million more than what the PBMs paid in pharmacy costs. On average, PBMs charged a 9 percent spread across all drugs. Additionally, the auditors found that generic drug prescriptions were charged on average a 31 percent spread. Since the findings were released, Ohio's Medicaid program required their managed-care plans to renegotiate the PBM contracts and to move from a spread pricing drug purchasing model to a pass-through mode. A pass-through structure requires a PBM to charge a managed care plan the exact amount the PBM pays for prescriptions and dispensing fees.

DISCUSSION:

Senator Guthrie remarked if a customer asks a pharmacist if there is a generic drug, one less expensive, or a better drug, would the pharmacist be obligated to answer. **Ms. Becker** stated if a patient does not ask, the pharmacist does not have to supply that information.

PRESENTATION:

Ms. Becker pointed out discounts and coupons for manufacturers are used by consumers to mitigate the cost of their prescription co-payments. Sometimes this includes getting the drugs that are at low or no-cost. Often these coupons are for medicines that are considered specialty or brand name, although there is no official agreed upon definition. Usually, these prescription drugs cost at least \$600 or more per patient per month. Many times they are injectable or infused in a vein and biologics are also included. This includes treatments for rheumatoid arthritis, cancer, and multiple sclerosis.

Ms. Becker reported coupon patient advocates and manufacturers often say that these coupons help increase access to innovative new treatments that patients would not otherwise be able to afford by reducing the patient's out-of-pocket costs. PBMs and insurers, however, say that coupons sidestep benefit designs such as tiered formularies to drive prescription volume toward other products, like generic medicines with lower cost. **Ms. Becker** explained the issue of co-pay coupons is not new to lawmakers, but it has gained recent attention by federal and state policymakers. She noted that Medicare and Medicaid, which cover over 80 million beneficiaries, consider coupons to be kickbacks and completely ban their use. PBMs use formulary tier placement as leverage to negotiate with manufacturers for discounts and rebates. This drives demand towards drugs with low co-payments. Demand falls for drugs placed on tiers with high co-payments. The top 200 highest expenditure drugs were examined and it was found that 90 of these brand drugs had coupons. Of those, only 21 percent had direct generic competition, while another 12 percent had no therapeutically equivalent substitute.

Ms. Becker pointed out that when a patient goes to a pharmacy to fill a prescription and uses a co-pay coupon, many times they assume the value of the coupon counts towards their deductible or out-of-pocket costs. Some insurers and PBMs have initiated a co-pay accumulator program, which does

not count the coupon's value towards those costs. Only true out-of-pocket payments count.

Ms. Becker cited a few examples. In a survey by Kaiser Family Foundation, they found that employees enrolled in high deductible plans increased from 4 percent in 2006 to 28 percent in 2017. Additionally, 37 percent of covered workers and small firms, and 15 percent of covered workers and large firms, are in a plan with a deductible of at least \$2,000. She cited how some states have adopted a variety of approaches. The prohibition of gag clauses remains a top concern for policymakers. States are looking for new ways of purchasing drugs, either through importation, value-based purchasing, multi-state co-op, interagency pooling, or other price negotiations - either through their Medicaid programs or through other state agencies.

Ms. Becker directed the Committee to the Prescription Drug Resource Center and other reports available at the NCSL prescription drug database.

DISCUSSION:

Senator Souza queried how a state would do an audit on pricing spread. **Ms. Becker** stated an internal audit could be done .

Senator Lakey and **Ms. Becker** discussed pricing transparency and legislation in other states relating to maximum allowable costs. **Ms. Becker** disclosed that much of the costs are proprietary in nature, which makes it difficult to find out the real cost. **Senator Lakey** remarked that some of the pricing sounded like transparency and some seemed to be price control. **Ms. Becker** remarked she did not think the language of price control is used. Legislation in several states was trying to shed light on the actual costs.

Senator Thayn stated he was interested in the scope of some of the topics besides PBMs. He queried if the reduction of pharmaceutical costs was beyond the scope of what other states are doing to reduce the overall cost of health care wellness plans. **Ms. Becker** remarked the NCLS Health Department has 15 employees who cover health from A to Z. The Pharmaceutical Department covers costs. They do not cover opioid legislation or over-the-counter medications.

Vice Chairman Agenbroad and **Ms. Becker** discussed federal regulations relating to gag orders and transparency issues. They discussed the idea that there is probably not one single entity or one individual or group that can really uncover all aspects of the pharmacy supply chain because there are so many moving parts and levers.

Senator Souza stated she was not clear on the function of PBMs since some are smaller and some larger. **Senator Souza** and **Ms. Becker** discussed negotiating a true price, if it is different from one pharmacy chain or group, and that negotiations are proprietary. **Ms. Becker** gave a brief overview of how PBMs originated and explained that at the beginning, PBMs administered pharmacy claims and benefits for plans.

Senator Burgoyne inquired if there is any evidence that PBMs save patients money. **Ms. Becker** remarked there have been many studies in the affirmative and in the negative, but until negotiations are transparent, it is hard to say what is true evidence.

Senator Guthrie inquired if there is a delivery model that is not utilizing PBMs. **Ms. Becker** cited that West Virginia did away with PBMs and is currently processing all of their own pharmacy claims. They have already estimated they have saved approximately \$33 million per year, which is between 2 to

4 percent of their State Medicaid budget for prescription drugs. **Senator Guthrie** queried if the premise was simply the power of negotiations or volume purchasing. **Ms. Becker** noted the three PBMs have over 70 percent of the market share, which gives them more ability to leverage prices.

Senator Burgoyne remarked he never understood the premise of PBMs nor the leverage issue. He asked for an explanation of how a PBM has more leverage than Walgreens and CVS. **Ms. Becker** related that Walgreens has a much smaller part of the market than the larger companies and, therefore, does not have as much leverage.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:09 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

This is a final board approved draft of its legislative proposal.
The proposal is still subject to technical corrections.

Title 54
Professions, Vocations, and Businesses

Chapter 7
Chiropractic Practice Act

54-707. POWERS AND DUTIES. The board shall have the authority to:

- (1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners;
- (2) Establish, pursuant to the provisions of chapter 52, title 67, Idaho Code, rules for the administration of the provisions of this chapter;
- (3) Conduct investigations and examinations and hold hearings;
- (4) Revoke or suspend licenses to practice chiropractic after providing the licensee with an opportunity for an appropriate contested case in accordance with the provisions of chapter 52, title 67, Idaho Code;
- (5) In any disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have the power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may desire at any hearing and, for that purpose, the board may issue a subpoena for any witnesses or subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county in the state of Idaho, where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. The licensee accused in such proceedings shall have the same right of subpoena upon making application to the board therefor. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum, served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which this disobedience, neglect or refusal occurs, on application by the board to compel compliance with the subpoena, to issue its order directing compliance with such subpoena, and in the event of a violation of such order, to compel compliance with such order by proceedings for contempt as in the case of disobedience of the requirement of a subpoena issued from such court or for refusal to testify therein;
- (6) Seek injunctive relief prohibiting the unlawful practice of chiropractic;
- (7) Make and enter into contracts in the necessary performance of its duties pursuant to this chapter;
- (8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions;
- (9) Perform such other duties as set forth in the laws of this state;
- (10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities;
- (11) Adopt rules to provide for reasonable fees and for administrative costs and to assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation thereof;
- (12) Adopt a rule requiring continuing education as a condition of continued licensure or continued certification in clinical nutrition; and
- (13) ~~Adopt rules pursuant to chapter 52, title 67, Idaho Code, to establish and operate a system of peer review for chiropractic physicians that shall include, but not be limited to, the appropriateness,~~

Attachment 1
H5
2/26/19

quality, utilization, and cost of chiropractic services and the ethical performance of chiropractic care.

~~54-715. PEER REVIEW COMMITTEE. The board of examiners may act as a peer review committee or may appoint other licensed chiropractors to perform such functions as set forth in section 54-707(13), Idaho Code.~~

~~(1) No monetary liability on the part of, and no cause of action for damages may arise against any member of a peer review committee duly appointed pursuant to the provisions of this chapter, for any act or proceeding undertaken or performed within the scope of the functions of such committee as provided in rules to be promulgated by the board pursuant to chapter 52, title 67, Idaho Code, if the committee member:~~

~~(a) Acts without malice;~~

~~(b) Has made a reasonable effort to obtain the facts of the matter on which the member acts; and~~

~~(c) Acts in reasonable belief that the action taken is warranted by the facts as known by the member after a reasonable effort to obtain facts.~~

~~(2) The contested case provisions of chapter 52, title 67, Idaho Code, do not apply to activities of the peer review committee.~~

~~(3) All licensees shall, as a condition of licensure, fully cooperate with and promptly respond to inquiries and requests from the committee[.]~~

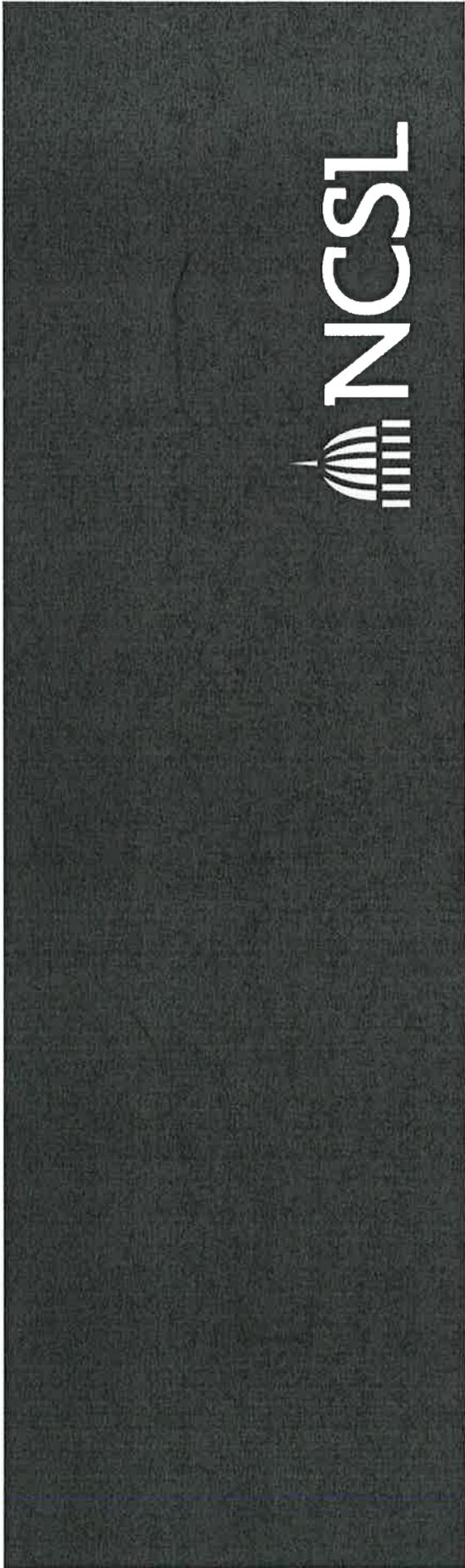
~~(4) The recommendations of the committee as to necessity for services of a licensee, and as to reasonableness of charges and procedures shall be reported to the person who requested the review and one (1) member of the board of examiners as designated by the board.~~

PHARMACY COSTS & PHARMACY BENEFIT MANAGERS (PBMS)

Idaho State Legislature

Tuesday, February 26, 2019

Colleen Becker, Policy Specialist



51068

2/26/19

attachment 2

Presentation

ABOUT NCSL.....

- NCSL is a champion of state legislatures
- All legislators + legislative staff are members
- We do not take positions on state laws or policies
- Here to serve YOU!



PRESCRIPTION DRUGS – FAST FACTS

- More than half of all Americans use prescription drugs
- Many products, both unique and competing:
 - US Food and Drug Administration (FDA) approved (dosages; delivery method) totals over 10,000
 - Total FDA different “molecules” is 2,100 (and growing)
- 90% of prescriptions filled now are generics (2017)
- Rapid pace of new, extraordinary treatments

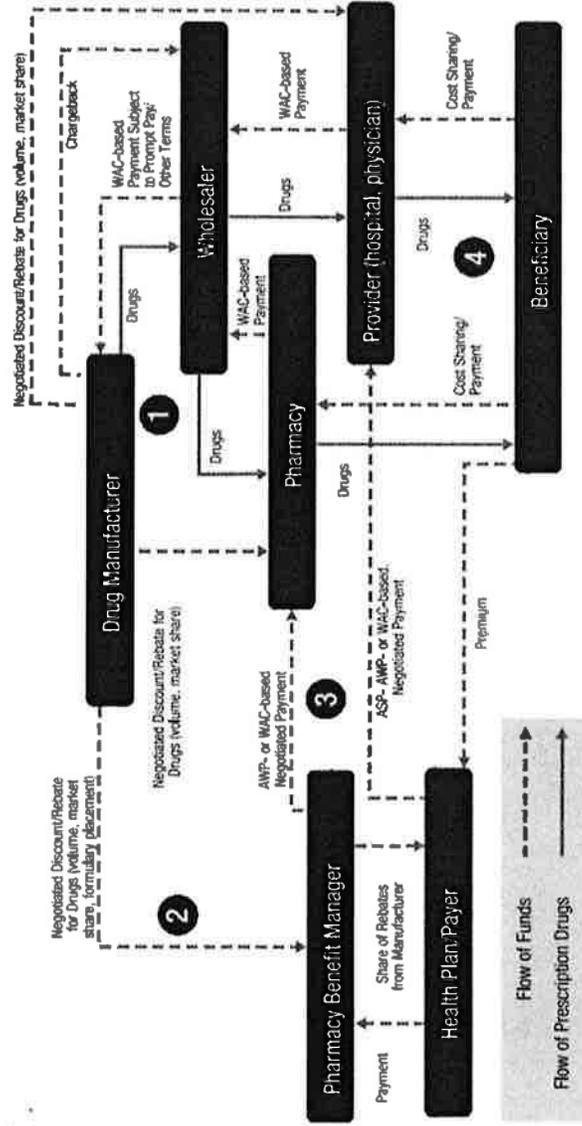
HOW MUCH ARE WE SPENDING?

- In 2017, CMS reported that 10% of all health care spending went to Rx drugs = \$333 billion.
- 16.7% of overall personal health care spending went toward prescription drugs in 2017.
- 53% of that goes to brand-name prescription drugs
 - 7.6% is for **specialty drugs** (*\$600/month; injected or infused*)
- 15% of Medicaid spending goes to prescription drugs
 - 2/3 for brand-name; 1/3 for generics



PHARMACY SUPPLY CHAIN

EXHIBIT 1
Drug Distribution Model



Model below designed by the Association of Managed Care Plans (AMCP)



NATIONAL CONFERENCE OF STATE LEGISLATURES

WHO AND WHAT ARE PBMS?



EXPRESS SCRIPTS®

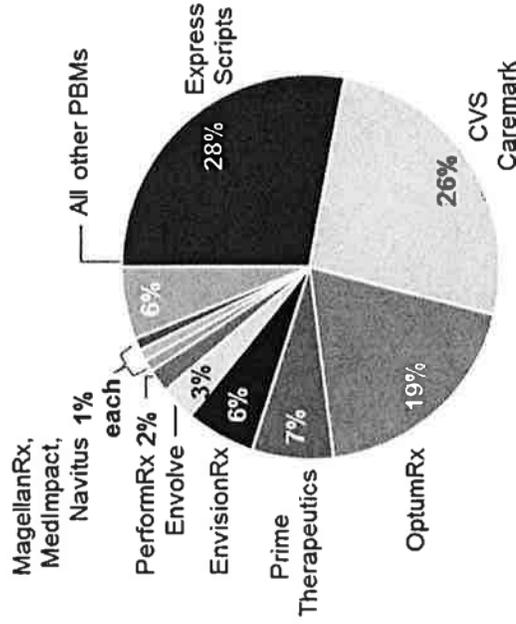


CVS caremark™



OPTUM™

Three Diverse Companies Control PBM Market in 2017
(Percentage share PBM lives)



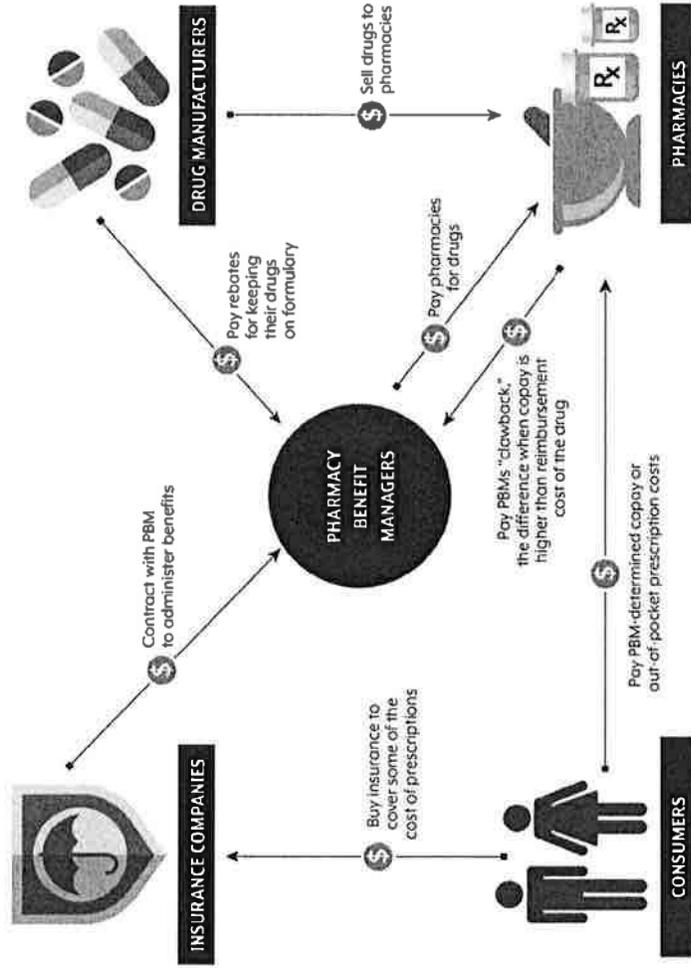
www.healthstrategies.com



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PHARMACY SUPPLY CHAIN AND THE ROLE OF PBMS

Figure 1. The Role of Pharmacy Benefit Managers



NATIONAL CONFERENCE OF STATE LEGISLATURES



COLORADO HEALTH INSTITUTE

COPAY CLAWBACKS

Table 1: Frequency and Average Size of Overpayments, 2013

	Number of Claims	Number of Claims with Overpayment	Percentage of Claims Involving Overpayment (95% CI)	Mean Overpayment (SD)
All Drugs	9,539,846	2,188,578	22.94% (22.91, 22.97)	\$7.69 (8.59)
Generic	7,295,525	2,055,024	28.17% (28.14, 28.20)	\$7.32 (7.43)
Brand	2,244,321	133,554	5.95% (5.92, 5.98)	\$13.46 (18.01)

Source: Optum Clinformatics™ Data Mart pharmacy claims, January–June 2013, and CMS NARP reimbursements from the same period. Confidence intervals are binomial.

Source: Univ. of Southern California, March 2018
https://healthpolicy.usc.edu/documents/2018.03_Overpaying%20for%20Prescriptions%20Drugs_White%20Paper_v.1.pdf

SPREAD PRICING

Ohio's Medicaid Managed Care Pharmacy Services

Table 3: Average Spread by Quarter and by Drug Type

Quarter	Average Spread			Total Average Spread for All Claims
	Brand	Generic	Specialty	
4/1/2017-6/30/2017	\$2.11	\$5.39	\$30.12	\$5.09
7/1/2017-9/30/2017	\$2.03	\$5.71	\$31.91	\$5.35
10/1/2017-12/31/2017	\$1.57	\$7.10	\$31.24	\$6.47
1/1/2018-3/31/2018	\$1.62	\$6.48	\$46.04	\$6.01
Yearly Total⁴	\$1.85	\$6.14	\$33.49	\$5.71
	Brand	Generic	Specialty	Totals
Number of Prescriptions	5,268,144	33,913,042	197,408	39,378,594
Percentage of Claims	13.4%	86.1%	0.50%	100%
Amount Paid by Plans (millions)	\$1,246.1	\$662.7	\$617.6	\$2,526.5
Total Spread (millions)	\$9.8	\$208.4	\$6.6	\$224.8
Spread Relative to Total Paid Amount by Drug Type	0.8%	31.4%	1.1%	8.9%

¹ Source: Data provided by CVS Caremark and OptumRx

² Based on the period of April 1, 2017 through March 31, 2018

³ We matched the spread data with the Medicaid Information Technology System using the pharmacy provider number. We found 334,475 services (0.8 percent) with no matching provider identification and removed those services for the purpose of this analysis.

⁴ Yearly totals are not an average and are weighted based on total records and amount paid.

- WEST VIRGINIA
- OHIO
- KENTUCKY

DISCOUNTS AND COUPONS



PAY AS LITTLE AS \$0*

For your NUEDEXTA 200mg Prescription Savings Card

BIN# 60062A
PCN# 54
GROUP# EC235028
ID# 12345678901

NUEDEXTA
Sildenafil Citrate Tablets
Pfizer Inc. New York, NY

Important Safety Information: NueDEXTA is a prescription drug. It is not for use in children. It may cause dizziness, lightheadedness, or fainting. Do not drink alcohol while taking NueDEXTA. Do not take NueDEXTA if you are taking other medications that may interact with it. See your doctor for more information.

Keep this card with you at all times. Show it to your pharmacist when you pick up your NueDEXTA. This card is not valid for cash or other purchases.

1.800.4HUMIRA
HUMIRA
adalimumab

basqiar
Prescription Savings Card

pay as **\$5/month**

Go to basqiar.com to activate your card. Call 1-888-368-8042 for more information.

PCN: 1000000000
GROUP: 1000000000
ID: 1000000000

Eliquis
apixibanibic

\$10 CO-PAY CARD
For Commercially Insured Patients*

ACTIVATE AT 1-855-ELIQUIS (354-7847)
OR WWW.ELIQUIS.COM

Important Information: This card is not valid for cash or other purchases. It is not for use in children. It may cause dizziness, lightheadedness, or fainting. Do not drink alcohol while taking Eliquis. Do not take Eliquis if you are taking other medications that may interact with it. See your doctor for more information.

GROUP: 30779822
ID: 1000000000

Linzess
linaclotide capsules

90 DAYS FOR \$30* OR **\$0**

For your LINZESS Prescription Savings Card

PCN# 00000000
GROUP# EC000000
ID# 0000000000

eucriisa
crisaborole ointment 2%

COPAY SAVINGS CARD
Pay as Little as \$35 Per Fill*

*Terms and conditions apply.

CO-PAY SAVINGS CARD

BIN: 60020 | GROUP: 9999779
ID#: XXXXXXXXXX
Expiration Date: 12/31/18

XELJANZ
(tofacitinib)

CALL TO ACTIVATE
1-844-935-5269

CO-PAY SAVINGS CARD

\$0

LYTRICA
gabapentin

Co-Pay Savings Card

Exp: 12/31/2018
BIN: 440008
PCN: 00000000
GROUP: 00000000
ID: 0000000000

PAY AS LITTLE AS \$25 PER RX.

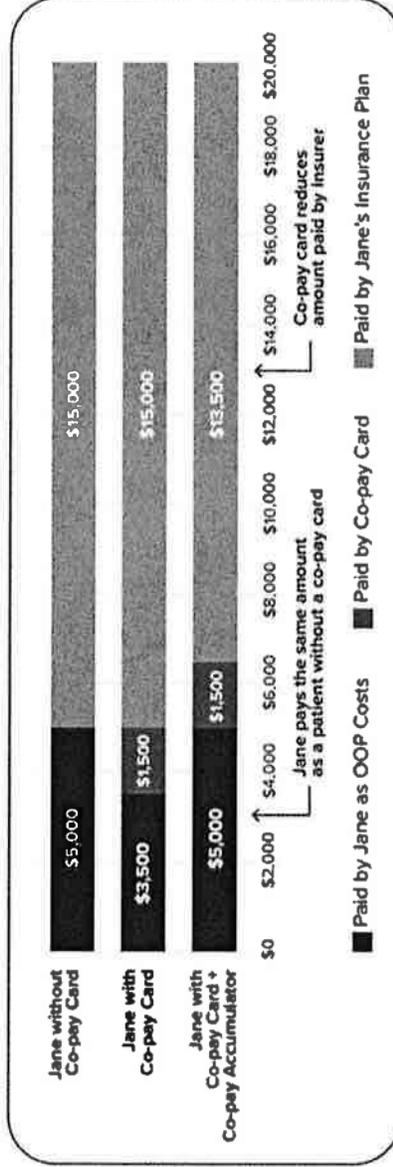
*Terms and conditions apply. See the LYTRICA card for details. This card is not valid for cash or other purchases.



COPAY ACCUMULATORS

PAN Foundation

Access to Healthcare:
Info to Know



Source: PhRMA
https://www.ftc.gov/system/files/documents/public_comments/2017/12/00503-142614.pdf



NATIONAL CONFERENCE OF STATE LEGISLATURES

STATE ACTION

Previous

- **2012 – MA A 548**

“the Massachusetts Anti-Kickback Statute no longer applies to any discount or free product vouchers that a retail pharmacy provides to a consumer in connection with a pharmacy service, item or prescription, unless that drug has an AB-rated generic equivalent”

- **2017 – CA A 205**

“Prohibits a person who manufactures a prescription drug from offering any discount coupon, repayment, product voucher, or other reduction in an individual's out-of-pocket expenses, if a lower cost generic is available on the insured's plan...”

This year

- **2019 – RI S 717**

“When calculating a patient's overall contribution to any out-of-pocket maximum, deductible, co-payment, coinsurance, or other cost-sharing requirement, a health plan shall include any amounts paid for by the patient or on behalf of the patient by another person. For the purpose of this section, a "person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, not-for-profit corporation, unincorporated organization, government or governmental subdivision or agency.”

- **2019 – NH H 717**

“Prohibits prescription drug manufacturers from offering coupons or discounts to cover insurance copayments or deductibles.”



NATIONAL CONFERENCE OF STATE LEGISLATURES

2019 AND BEYOND

Emerging themes for 2019 –Survey Results

- PBMs
- Gag-Clauses
- Registration and Licensure Requirements
- Standards for Audits
- Fiduciary



- Price Transparency
- Step-Therapy
- Innovative approaches to purchasing
 - Importation
 - Alternative Payment Models (APMs)
 - Value-based Purchasing
 - Multi-state co-ops and/or interagency pooling,



NATIONAL CONFERENCE OF STATE LEGISLATURES

NCSL PRESCRIPTION DRUG RESOURCE CENTER

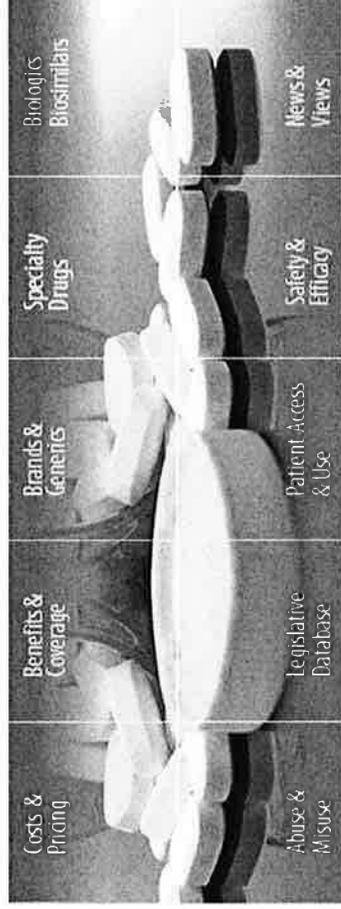


NCSL
NATIONAL CONFERENCE OF STATE LEGISLATURES

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NCSL PRESCRIPTION DRUG POLICY RESOURCE CENTER

12/20/2018



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NATIONAL CONFERENCE OF STATE LEGISLATURES

NCSL PRESCRIPTION DRUG DATABASE

STATEWIDE PRESCRIPTION DRUG DATABASE | 2015 - PRESENT

2/6/2019



TABLE OF CONTENTS

- Prescription Drug Database
- Additional Rx Resources
- Prescription Drugs Database
- Features, Topics and Keywords
- Guides to Prescription Drugs Database
- NCSL 50-State Databases

Use this state legislative database to learn about and analyze what states are considering and enacting in current topic areas of prescription drugs. The bill listings include thirteen broad categories of state regulation and involvement. Using the search check-box below, you can search among more than 4,600 pieces of legislation by state, year, topic, keyword, current status, and/or primary legislative sponsor. For more information on the topics covered in the database, please see the guide section below: the database.

- Updates:**
 - 2019 filed and pending legislation. Use the "2019" checkbox below. As of the end of January there were more than 500 measures in at least 44 states, Puerto Rico and DC listed for consideration in 2019. So far at least 9 new laws have been signed in at least 3 states and D.C. and Puerto Rico. Bills carried over from 2018 are included.
 - Weekly updates: Bill information for the current year is updated each Tuesday. New measures are added as they are introduced or identified by NCSL staff.
 - Two-year Sessions: Bills may appear twice in carry over states. In these states, please check the last date of action to ensure the status of the bill reflects the appropriate year.
 - Select year as "All" to display measures from 2015 through 2018 in one list. Newly filed bills may take 1-2 weeks to be available in the list below, depending on each legislature's procedures.

This search is based on the following:
 Topics: Pharmacy Benefit M...
 States: All States
 Year: 2019

RESULTS
 AZ H 2157
 2019
 Insurer Responsibility and Pharmacy Benefits
 Status: Pending - House Health and Human Services Committee
 Date of Last Action: 1/16/2019
 Author: Bird (R) Additional Authors: Cobb (R)



NATIONAL CONFERENCE OF STATE LEGISLATURES

www.ncsl.org/Default.aspx?TabId=28729

THANK YOU!

Colleen Becker, policy specialist

Colleen.Becker@ncsl.org

303-856-1653



AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, February 28, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of February 21, 2019	Senator Mary Souza
<u>S 1068</u>	Relating to Pharmacy Benefit Managers	Chairman Patrick

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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
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, February 28, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:31 p.m.

MINUTES APPROVAL: **Chairman Patrick** announced that due to the absence of Senator Souza, the approval of the Minutes of February 21, 2019 would be heard at a later time.

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

S 1068

Relating to Pharmacy Benefit Managers (PBMs). **Chairman Patrick** reported that PBMs are third party administrators under contract by health plans, employers, and government entities to manage prescription drug programs for health plan recipients. PBMs decide which pharmacies are included in a prescription drug plan's network and how much the pharmacy will be paid for dispensing services. Idaho is one of five states that does not regulate or have any oversight over PBMs. This bill will require PBMs that operate in Idaho to register with the Idaho Department of Insurance (IDOI). **Chairman Patrick** explained that in the original version of the bill, pharmacists were given more flexibility in informing patients how they can pay less out-of-pocket for prescriptions. Today, PBMs prohibit pharmacies from discussing prescription cost options with their patients. Recently, legislation passed and was signed into law at the federal level prohibiting "gag clauses" on Medicare Part D and Advantage plans, but State legislation is still needed for all other insurance. Most states already have this type of law in effect. **Chairman Patrick** stated that lastly, the original bill included language that would save health plans money via reimbursement rates and deductibles when rebates, coupons, vouchers, discounts, and other direct payments were applied towards prescriptions. However, the original bill has been amended.

Chairman Patrick advised there is no fiscal impact to the General Fund; however, the changes to Idaho Code § 41-348 will ultimately have a positive fiscal impact on the General Fund, although the amount is unknown, since it is projected to potentially have a significant cost savings to the State employee health insurance program and Medicaid.

Chairman Patrick reported the original bill has been simplified and read the amendment. He said that on page 2 of the printed bill, lines 21 through 48 are deleted. On page 3, lines 1 through 20 are deleted; and line 21 deletes "3" and inserts: "2." He reported there was a correction to the title. On page 1, line 6 deletes "AMENDING SECTION 41-348, IDAHO CODE, TO REVISE PROVISIONS RE -"; and line 7 deletes ". . .GARDING PROHIBITED ACTS AND TO DEFINE TERMS;."

Chairman Patrick asked the Committee to have the bill sent to the 14th Order for possible amendment in an effort to provide more transparency.

TESTIMONY: **Tyler Higgins**, Pharmacist, Idaho State Board of Pharmacy Association, testified in support of the bill. He stated he may have to close his business because of PBMs. He said he believes in fair and free enterprise, but PBMs are greedy and want profit.

DISCUSSION: **Senator Guthrie** inquired if the amendments to this bill helped the pharmacies. **Mr. Higgins** remarked this was a step in the right direction.

Mr. Higgins and **Senator Lakey** discussed the negotiation of contracts with an insurance company group through a PBM, the amount a pharmacist is paid by a PBM, and what a pharmacist is required to charge a patient. They discussed yearly changes in contracts, the notion they are non-negotiable, and the overnight loss of business if the pharmacist does not agree with the contract.

TESTIMONY: **Doug Fuchs**, Pharmacist and co-owner of seven small pharmacies, testified in support of the bill. Because of the non-negotiable PBM contracts, he has had to sell some prescriptions under cost. He is paid \$55 below cost for an epi-pen, but wants his clients to have them in spite of the loss. He has no way of recovering his money. In his opinion, PBMs are taking money from him. He has lost 10 percent of the 37,000 filled prescriptions during the last month.

DISCUSSION: **Senator Martin** queried if the situation would be helped by this bill. **Mr. Fuchs** stated this was a good step, but wanted and needed a solution more quickly. He liked the idea that PBMs will be regulated by the IDOI. He remarked that three months ago he was paid \$25 for a prescription and is now receiving \$10. He affirmed PBMs should be regulated.

Senator Guthrie and **Vice Chairman Agenbroad** discussed PBMs with **Mr. Fuchs**. **Mr. Fuchs** reported he has been dealing with PBMs his entire career, with the last three years being the hardest. He has been dealing with Maximum Allowable Cost (MAC) fees, which are the upper limits that a PBM or prescription drug benefit plan will pay a pharmacy for generic and brand name drugs that have generic versions available (multi-source brands). He has also been dealing with Direct and Indirect Remuneration (DIR) fees, which involve what PBMs charge pharmacies to ensure the maximum allowable cost provides optimal care for patients, and meet certain benchmarks.

TESTIMONY: **Michael Mollson**, Managed Care Group Director, Albertsons, testified in support of the bill. He remarked he was responsible for negotiating with the PBMs for the Albertsons chain of stores. This legislation takes some steps to help. Currently, there is no oversight in Idaho for PBMs.

Pam Eaton, Idaho Retailers Association, testified in support of the bill. She emphasized this bill is a good first step which impacts all pharmacies. Today, pharmacies are struggling. Idaho is only one of a few states that does not have oversight over PBMs.

DISCUSSION: **Senator Guthrie** and **Ms. Eaton** discussed the history of PBMs, how oversight is needed, and the lack of transparency on the part of the PBMs. **Ms. Eaton** emphasized the PBMs are out of control and states are trying to get PBMs to conform.

Senator Martin queried if anyone could form a PBM and provide a cheaper service. **Ms. Eaton** responded anyone could open any kind of business, but in the PBM industry there are basically three companies who comprise the majority. There are no PBMs based in Idaho. It would take years to become established and make a PBM work.

TESTIMONY: **Sharon Brigner**, Registered Nurse (RN), representing Pharmaceutical Research and Manufacturers of America (PHRMA), testified in support of the bill. She explained money has been spent on research and development. She stated that originally PHRMA was in opposition to the bill until it was amended. PHRMA opposed section 2 relating to coupons. She said this bill was a good step forward and savings should be passed on to patients.

DISCUSSION: **Senator Lakey** inquired what other potential steps would be appropriate. **Ms. Brigner** reiterated this is a great step forward. One-third of the revenue of the manufacturer's money is going to PBMs, but should be passed on to the patient. If savings were passed down from the manufacturer's rebates to the patient at the pharmacy counter, they could achieve more than \$800 per year in savings with only a 1 percent increase in premiums. **Ms. Brigner** recommended looking for and exploring ways to save money for the patient instead of the other supply chain stakeholders who are already benefiting from rebates, which were intended to go toward access to medicines for patients.

Senator Guthrie remarked pharmacists testified today who were losing money. PBMs are not casting a good light. He inquired what PHRMA was doing to acclimate to a changing business model. **Ms. Brigner** clarified she is not representing PBMs and agreed they have to make some changes. She stated she believed in looking at passing savings on to the patient and the rebate structure has to be redone. Originally, PBMs were thought to help alleviate negotiations, but are now out of control. **Ms. Brigner** emphasized PBMs should work with all stakeholders.

Chairman Patrick asked Pam Eaton to testify again. He stated this bill does not do enough, but it is a beginning.

TESTIMONY: **Pam Eaton**, Idaho Retailers Association, remarked she learned that some pharmacists created a PBM in another state. They saved the pharmacies \$1.5 million in the first year. This can be done, but because there are three large PBMs, it may be next to impossible to accomplish and could take years.

MOTION: **Senator Guthrie** moved to send **S 1068** to the 14th Order of business for possible amendment. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

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

MINUTES APPROVAL: **Senator Martin** stated he had also read the Minutes of February 21, 2019 and found them in order. **Senator Martin** moved to approve the Minutes of February 21, 2019. **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 2:25 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Tuesday, March 05, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>H 84</u>	Relating to General Business Corporations	Senator Grant Burgoyne
<u>H 94</u>	Relating to Liquefied Petroleum Gas Containers	Representative Britt Raybould
GUBERNATORIAL REAPPOINTMENT & VOTE	Committee Consideration of the Gubernatorial Reappointment of Max Black, Idaho State Insurance Fund Board	Max Black
GUBERNATORIAL REAPPOINTMENT & VOTE	Committee Consideration of the Gubernatorial Reappointment of Celia Gould to the Public Employee Retirement System of Idaho (PERSI)	Celia Gould
GUBERNATORIAL REAPPOINTMENT & VOTE	Committee Consideration of the Gubernatorial Reappointment of Thomas Limbaugh to the Industrial Commission	Thomas Limbaugh
GUBERNATORIAL REAPPOINTMENT & VOTE	Committee Consideration of the Gubernatorial Reappointment of Susan Buxton, Administrator, Idaho Division of Human Resources	Susan Buxton
PRESENTATION	Workforce Development Council	Wendi Secrist, Executive Director, Workforce Development Council

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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
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, March 05, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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.

H 84 **Relating to General Business Corporations. Senator Burgoyne** reported this legislation amends the Idaho Business Corporations Act (IBCA), Idaho Code Title 30, Chapter 29 to (i) bring it into conformity with the Model Business Corporations Act (Model Act); and (ii) to harmonize the IBCA with the Uniform Business Organizations Code (UBOC), Idaho Code, Title 30, Chapter 21. **Senator Burgoyne** commented Idaho amended the UBOC in 2015 (S 1025). The IBCA has been based on the Model Act since 1979, and has periodically incorporated Model Act changes. **Senator Burgoyne** explained the IBCA has not yet, however, incorporated the Model Act's most recent changes from 2016, which is the purpose of this legislation. The UBOC pertains to all business organizations, including corporations. By agreement between the Uniform Law Commission (ULC) and the American Bar Association (ABA), the ABA has responsibility for the Model Act. Consequently, Idaho's adoption of the UBOC did not serve to update the IBCA. This legislation provides the needed update.

Senator Burgoyne stated it is not anticipated that this legislation will increase or decrease existing or future appropriations, or increase or decrease revenues by the State or units of local government, except for some possible and likely minimal computer programming changes in the Secretary of State's office, the cost of which cannot be estimated at this time. Fee charges are covered in Idaho Code Title 30, Chapter 21 and are unaffected by these amendments to Idaho Code, Title 30, Chapter 29.

Senator Burgoyne referred to his written remarks for the bill provided to the Committee previously; a summary of the bill prepared by David Jensen, Attorney with the firm of Parsons, Behle, and Latimer; and code sections repealed by the bill. He then deferred to Mr. Jensen.

TESTIMONY: **Mr. Jensen** referred to the bill summary, which included 1.) a section identifying substantive changes made by the bill; 2.) a section on Idaho differences from the Model Act which are preserved by the bill; 3.) background information; and 4.) a list of attorneys who participated in drafting the bill (Attachment 1). He highlighted some key additions, again referring to Attachment 1.

MOTION: **Senator Burgoyne** moved to send **H 84** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 94 **Relating to Liquefied Petroleum Gas Containers. Representative Britt Raybould** reported the purpose of this legislation is to provide a layer of safety for the public propane consumer. The safety of Idahoans is put at risk when Discount Propane Providers (DPPs) fill propane tanks already leased to customers by legitimate Idaho propane companies. She remarked the DPPs do not conduct safety inspections or leak tests, and very often overfill tanks to dangerous levels. The proposed law will protect consumer safety by restricting the filling of propane gas storage tanks or cylinders to its owner or someone having the owner's authorization. The law additionally provides liability protection and legal recourse in the event of violation. The owner of a container, or his agent, has the greatest interest in seeing that only safe filling procedures are followed and that all governmental requirements are met. Propane tanks owned by the customer can be filled by any company the customer chooses and would not be affected by this legislation. There will be no fiscal impact to the General Fund because this legislation does not require any State funds be expended.

TESTIMONY: **Will Hart**, Executive Director, Idaho Consumer-Owned Utilities Association, testified in support of this bill. He remarked this bill protects customers from rogue providers attempting to violate customer agreements and private property rights, while putting consumers at risk. Forty-three other states have similar laws and regulations regarding propane safety, including all of the states bordering Idaho, with the exception of Wyoming. **Mr. Hart** stated this law only affects Idahoans who lease their tanks under contract with legitimate propane companies. This law does not affect tank owners.

DISCUSSION: **Senator Thayne** remarked that sometimes discount providers supply a different quality of propane and asked Mr. Hart to expound on that theory. **Mr. Hart** stated that some propane can be commercial grade, which is not the same type as residential propane. The commercial grade can fire dirty and clog filters.

Senator Thayne stated his son works for a co-op that has a propane distributorship, that he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

MOTION: **Senator Guthrie** moved to send **H 94** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

GUBERNATORIAL REAPPOINTMENT & VOTE: The Gubernatorial reappointment of Max Black of Boise, Idaho, to the Idaho State Insurance Fund Board (ISIFB) term commencing April 3, 2018 and expiring April 3, 2022. **Mr. Black** provided a brief overview of his background.

DISCUSSION: **Senator Burgoyne** commented that Mr. Black is very knowledgeable and has earned his endorsement several times. He thanked him for continuing to serve and volunteer his time.

Senator Lakey said he had the pleasure of serving with Mr. Black on the ISIFB. **Senator Lakey** stated he is a Board member of the ISIFB, that he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

Senator Martin asked Mr. Black what he has accomplished and what were his goals for the future. **Mr. Black** remarked the ISIFB is an important agency. Workers' compensation is a needed function and the ISIFB fulfills that need. The ISIFB serves in a competitive market. Sometimes action is required by

the Director of the Idaho Department of Insurance (IDOI) and the ISIFB is there to help.

MOTION:

Senator Martin moved to send the Gubernatorial reappointment of Max Black of Boise, Idaho, to the Idaho State Insurance Fund 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**. Senators Burgoyne and Bayer will carry the appointment on the floor.

GUBERNATORIAL REAPPOINTMENT & VOTE:

The Gubernatorial reappointment of Celia Gould of Boise, Idaho, to the Public Employee Retirement System of Idaho (PERSI) term commencing July 1, 2018 and expiring July 1, 2023. **Ms. Gould** stated she is honored to be on the PERSI Board. She gave an overview of her background also stating she has served in the Idaho Legislature. **Ms. Gould** noted that currently she is the Director of the Idaho Department of Agriculture. She remarked she has had the privilege of working alongside State employees for the last 12 years and she sees the pride, diligence, and professionalism in which they carry out their work. The employees are the State of Idaho's greatest asset and they are the reason she wants to serve on the PERSI Board as the representative of public employees. Without a doubt, PERSI is the very finest public retirement system in the country. Idaho's public employees deserve a solid and predictable future. She said she hopes to continue to serve on the PERSI Board.

MOTION:

Senator Ward-Engelking moved to send the Gubernatorial reappointment of Celia Gould of Boise, Idaho, to the Public Employee Retirement System of Idaho Board, to the floor with the recommendation that she be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**. Senator Ward-Engelking will carry the appointment on the floor.

GUBERNATORIAL REAPPOINTMENT & VOTE:

The Gubernatorial reappointment of Thomas Limbaugh of Fruitland, Idaho, to the Idaho Industrial Commission (IIC), term commencing January 14, 2019 and expiring January 14, 2025. **Mr. Limbaugh** stated it was an honor to be reappointed. He gave a brief overview of his background. He stated he has had the opportunity to serve on many boards, councils, and the Legislature. He enjoys serving and enjoys the people with whom he works.

MOTION:

Senator Thayn moved to send the Gubernatorial reappointment of Thomas Limbaugh of Fruitland, Idaho, to the Idaho 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**. Senator Lee will carry the appointment on the floor.

GUBERNATORIAL REAPPOINTMENT & VOTE:

The Gubernatorial reappointment of Susan Buxton of Boise, Idaho, as Administrator, Idaho Division of Human Resources (IDHR), term commencing January 7, 2019 and serving at the pleasure of the Governor. **Ms. Buxton** gave a brief overview of her background.

Ms. Buxton summarized the accomplishments of the IDHR, including transforming the IDHR from transactional human resources services to strategic human resources services, which includes the delivery and design of the business of government strategic designs. In addition, the statewide Employee Evaluation System (I-Perform) has been upgraded. The statewide Applicant Tracking System that processes approximately 18,000 applications annually, has been replaced with a new system that has better functionality. The Supervisory Academy and Respectful Workforce Employee Training has been revised. The first statewide mandatory Cybersecurity Training was also implemented. The statewide Employee Total Compensation Survey was conducted. The IDHR has undertaken a larger statewide role in assisting with employee complaint investigations and mediations to curb the costs of third

party services. **Ms. Buxton** stated she has enjoyed working with the IDHR and has been excited about having the opportunity to continue as the Administrator.

MOTION:

Senator Lakey moved to send the Gubernatorial reappointment of Susan Buxton, of Boise, Idaho, Administrator, Idaho Division of Human Resources, to the floor with the recommendation that she be confirmed by the Senate. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**. Senator Burgoyne will carry the appointment on the floor.

PRESENTATION:

Idaho Workforce Development Council (IWDC). **Wendi Secrist**, Executive Director, IWDC, presented a report on the IWDC outlining the purpose, training fund programs, and grants and outreach projects (Attachment 2). She explained the various programs that address learning through work, internships, apprenticeships, and the various agencies the IWDC works with in developing these programs (Attachments 3, 4, and 5).

Ms. Secrist mentioned the challenge is to do a better job of communicating. The IWDC is in the process of gathering information on local events. They are working closely with the Idaho State Board of Education and other entities to insure good communication. She stated the IWDC is also working with the Idaho Division of Veterans Services to facilitate converting military Commercial Driver's Licenses (CDLs) to a civilian CDL.

DISCUSSION:

Chairman Patrick queried if the military CDLs were the same as a civilian CDL. **Ms. Secrist** remarked Idaho has a mechanism to convert these licenses.

Senator Thayn and **Ms. Secrist** discussed how many adults and high school students are being served by the IWDC and the various pathways for apprenticeship programs for these participants.

Senator Burgoyne remarked the IWDC is the most important program in the State of Idaho. **Senator Burgoyne** and **Ms. Secrist** discussed the different methods for measuring success, but especially the impact of training.

Senator Guthrie commented it is desirable for people to stay in Idaho, but until the State is promoted in a positive manner and the wages improve, people will leave. **Ms. Secrist** stated she agreed that a platform needed to be built where jobs can be found and opportunities provided to highlight the State in order to retain people.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:47 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

Linda Kambeitz

From: Senator Grant Burgoyne
Sent: Friday, March 01, 2019 2:31 PM
To: SenateCommerceHumanResources
Cc: David S. Jensen; Paul Street
Subject: HB 84 (Idaho Business Corporations Act)
Attachments: Sen.Comm.HR Present. 03.05.docx; IBCA Bill Summary Memo (Rev. 02.03.19).docx; Sections Repealed by IBCA Legislation.pdf



Idaho State Senate

Legislature.Idaho.Gov

Dear Senate Commerce and Human Resources Committee Members and Linda,

Linda has informed me that my corporate code bill, HB 84, is on our committee's agenda for next Tuesday, March 5, that the agenda is very full and that HB 84 is allotted 15 minutes at most. The bill is 133 pages in length, and is an update to the Idaho Business Corporations Act (IBCA). The IBCA is a model act, and the bill incorporates certain 2016 model act changes into Idaho law. The purpose of this email is to attempt to shorten the amount of time needed in committee for the bill on Tuesday.

The hearing to introduce the bill in the House Business Committee took roughly a half hour, including questions, and the hearing on the merits in that committee took about the same amount of time, including questions. We were able to shorten the time of the House hearings by providing the House committee preparatory information in advance of the hearings. I am, therefore, providing you similar preparatory materials as attachments to this email. Hopefully, this will help shorten our hearing substantially. Linda, I request that these materials be in the bill packets for the hearing.

This is the link to the Statement of Purpose/Fiscal Note and the bill:
<https://legislature.idaho.gov/sessioninfo/2019/legislation/H0084/>

The following are attached to this email:

- My written remarks on the bill for Tuesday's hearing;
- A summary of the bill, dated February 3, 2019, prepared by David Jensen who will be present at Tuesday's hearing; and
- Code sections repealed by the bill.

Mr. Jensen is an attorney who was on the committee which drafted the bill. That committee was composed of Idaho's leading business lawyers. Mr. Jensen's bill summary includes the following information:

- A section identifying substantive changes made by the bill;
- A section on Idaho differences from the model act which are preserved by the bill;
- Background information; and

H 84

*attachment #1
3/5/19
Burgoyne*

- A list of the attorneys who participated in drafting the bill.

Very truly yours,

Grant

Senator Grant Burgoyne

HB 84

Idaho Business Corporations Act Amendments

House Business Committee

Hearing on the Merits

February 20, 2019

Mr. Chairman, Members of the Committee, I am Senator Grant Burgoyne, District 16.

It is my pleasure to provide you with an introduction of our presentation on HB 84.

With me today is David Jensen, one of the attorneys who served on the drafting committee for the bill. His primary purpose here is to explain the bill itself.

The committee consisted of leading business attorneys in Idaho with participation by the office of the Secretary of State. Its work was facilitated by the Business and Corporate Law section of the Idaho Bar Association, but the Bar was not asked to go through the complex process of formally endorsing the legislation. Furthermore, the Secretary of State neither endorses or opposes the legislation.

The Idaho Association of Commerce and Industry supports the bill and there is no known opposition.

The bill amends the Idaho Business Corporations Act, bringing it into greater conformity with the Model Corporations Act amendments of 2016, and harmonizing it with the Uniform Business Organizations Code (UBOC) which Idaho has already adopted, and which has varying degrees of application to numerous types of business organizations.

Some have wondered if we didn't do the work of this bill in 2015 when Idaho updated the UBOC. We did not. Let me explain. The UBOC is a project of the Uniform Laws Commission and pertains to all business organizations except that it does not get into the details of domestic business corporations. The Model Corporations Act is a project of the American Bar Association and pertains only to domestic business corporations. Because the UBOC and the model act work together to some degree, the UBOC simply reserves a blank spot for the model act to slide into when it is ready. In Idaho the spot for the IBCA is Title 30, Chapter 29, Idaho Code. The UBOC occupies other chapters in Title 30. In 2015, amendments to the UBOC were ready and Idaho updated it with the uniform law amendments, but as the 2016 model act amendments were not yet ready, the IBCA could not then be updated. This bill now updates the ICBA with the 2016 model act amendments.

The bill pertains only to domestic corporations, not corporations incorporated elsewhere even if they are authorized to do business in Idaho.

Where this bill does not follow certain model law amendments, it is because the drafters feel the preexisting Idaho rule is the better rule for Idaho.

I believe your packet contains, in addition to the Statement of Purpose, Fiscal Note and the bill, a bill summary prepared by Mr. Jensen and the statutes repealed by the bill.

The bill reduces regulatory burden on Idaho corporations by providing them a governing model law very much like the model law of other U.S. jurisdictions, meaning that these corporations and their personnel only need to understand a few legal differences from state to state. This substantially reduces the legal and other work needed to stay in compliance with legal requirements where Idaho corporations do business. Furthermore, it assures that Idaho remains a friendly regulatory environment for those businesses which are incorporated in Idaho, or which might be looking to incorporate in Idaho.

With that, Mr. Chairman, may I yield to Mr. Jensen for his portion of the presentation?

Thank you, Mr. Chairman and members of the Committee.

To: Senator Burgoyne
From: David Jensen and Christopher Nuñez
Re: Proposed Amendments to the Idaho Business Corporation Act
Date: February 3, 2019

Since 1979 the Idaho Business Corporation Act (the "IBCA") has substantially followed the Model Business Corporation Act (the "Model Act") published by the Corporate Laws Committee of the American Bar Association's Business Law Section. The current IBCA was adopted in 1997 with some updates in 2004, using the most current version of the Model Act at that time -- the 1984 Revision with updates through 2003.

The Model Act has continued to be updated through periodic amendments since 2004 and recently went through a thorough review and revision, resulting in what is now known as the 2016 Revision of the Model Act. The 2016 Revision incorporated all changes to the Model Act over the years and provides consistency among the provisions with a streamlined and updated Official Comment. It is also designed to accommodate the Uniform Law Commission's Uniform Business Organizations Code (the "UBOC"). The UBOC uses what is commonly described as a "hub and spoke" form of business entity legislation in which a "hub" contains provisions generally applicable to all forms of business entities and a "spoke" contains the substantive provisions for each form of entity. The 2016 revisions to the Model Act made it more compatible with the terminology and concepts used in the UBOC.

Idaho adopted the UBOC in 2015. At that time the current IBCA was modified only to the extent necessary to fit it into the "hub and spoke" structure of the UBOC. Corporate Law is constantly evolving, and the current IBCA has not kept up with the changes during the past 15 years.

A committee consisting of business attorneys and representatives of the Idaho Secretary of State's office have reviewed the 2016 Revision of the MBCA for adoption in Idaho to bring Idaho corporate law up to date and better fit with the rest of the UBOC. The members of the committee are listed at the end of this memo.

In order to get the full benefit of a model act, the committee decide to follow the current wording in the Model Act unless a specific reason could be identified to use alternate language for Idaho. This approach is useful in Idaho since we generally do not have a lot of judicial decisions interpreting the IBCA. By following a model act, the judicial decisions from the many other states that have adopted the Model Act can be researched for potential guidance in Idaho.

The proposed new IBCA continues the long-standing changes Idaho has made to the Model Act. In addition, where Idaho law has current established statutory time periods, we have retained them. Most of the proposed changes to the IBCA are not substantive, but merely follow the wording of the 2016 Revision of the Model Act.

The following list identifies the substantive changes in the proposed new IBCA.

- 1 30-29-123. Effective Date of Filed Document.** This section provides definitive rules for when a filing with the secretary of state becomes effective. (Section 2, P 8, LL 18-25)

- 2 **30-29-140 and 30-29-141. Electronic Communication.** Provisions added to accommodate electronic means of transmission and filing and to recognize electronic signing and delivery. (Sections 3 and 4, P 9, LL 27-40, and PP 12-14)
- 3 **30-29-143. Qualified Director.** The definition of the term “qualified director” identifies those directors: (i) who may take action on the dismissal of a derivative proceeding (section 30-29-744); (ii) who are eligible to make, in the first instance, the authorization and determination required in connection with the decision on a request for advance for expenses (section 30-29-853(c)) or for indemnification (sections 30-29-855(b) and (c)); (iii) who may authorize a director’s conflicting interest transaction (section 30-29-862); (iv) who may disclaim the corporation’s interest in a business opportunity (section 30-29-870(a)); and (v) who may make applicable the limitation or elimination of a duty of an officer to offer the corporation business opportunities before the officer or a related person of the officer pursues or takes the opportunity (section 30-29-202(b)(6)). (Section 6, PP 14-15)
- 4 **30-29-145 through 152. Ratification of Defective Corporate Actions.** Adding this section provides Idaho corporations the flexibility to ratify defective corporate actions. This has been a part of the model act for several years. (Sections 8-15, PP 16-22)
- 5 **30-29-202. Business Opportunities.** Permits corporations to include in their articles of incorporation a provision that limits or eliminates a director’s or an officer’s duty to present a business opportunity to the corporation. (Section 16, P 23, LL 39-48)
- 6 **30-29-203(b). Incorporation.** The term “conclusive” is substituted for the term “prima facie.” The Model Act uses the term conclusive to describe the effect of the secretary of state’s filing of articles of incorporation. Under this subsection the filing of the articles of incorporation is conclusive proof that all conditions precedent to incorporation have been met, except in specified proceedings brought by the state. This provides protection for someone who acts on behalf of a corporation expecting liability limitation in reliance on the filing of the articles of incorporation. The “prima facie” term would seem to allow personal liability to be imposed if a third-party could find a flaw in the incorporation process. The UBOC uses the term “conclusive” in a number of places, but does not use “prima facie,” so the changed term is more consistent with the rest of the UBOC.
- 7 **30-29-206. Shareholder Director Nominees.** Authorization of bylaw provisions requiring inclusion of shareholder director nominees in a corporation’s proxy material. (Section 20, P 25, LL 6-24)
- 8 **30-29-208. Forum Selection.** This new section permits the articles of incorporation or the bylaws to specify the forum or forums for litigation of internal corporate claims. (Section 22, P 26, LL 4-29)
- 9 **30-29-624(c). Awarding of Stock Options.** Provides express authority for the delegation to officers of the designation of recipients of compensatory awards involving the issuance of shares, either directly or upon exercise of rights to acquire shares, and the determination of the amount and other terms of the awards, subject to any applicable limitations established by the board of directors or the shareholders. (Section 35, P 34, L 47 to P 35, L 10)
- 10 **30-29-704. Written Consents.** Adds provisions on shareholder actions that permit shareholder written consents that may be less than unanimous if authorized in the articles of incorporation. (Section 46, P 40, L 18 to P 41, L 36)

- 11 **30-29-707. Record Dates.** Provides for use of bifurcated record dates for notice of a meeting and eligibility to vote to better align ownership and voting. (Section 49, P 43, LL 13-21)
- 12 **30-29-709. Remote Participation in Shareholder Meetings.** Since the last revision to this section of Idaho law in 2004, the manner in which businesses hold meetings has changed significantly. This provision accommodates any mode of remote communication that a board of directors may authorize. (Section 51, P 43, LL 40 to P 44, L 10)
- 13 **30-29-730 and 30-29-732. Voting Trusts and Voting Agreements.** These sections no longer limit the duration of a voting trust or shareholder agreement, departing from prior language that provided a 10-year maximum for voting trusts and a 10-year limit for voting agreements unless the agreement provided otherwise. This new approach is consistent with the wide freedom of contract provided to participants in such enterprises. For trusts or agreements entered into during a time that section 7.30 or 7.32 provided for a 10-year term, its duration will be governed by the provisions of the section in force at the time the trust or agreement became effective. (Sections 62 and 64, PP 51-53).
- 14 **30-29-748. Custodian or Receiver.** Previously, the procedures for the appointment of a receiver or custodian were ancillary to an action for judicial dissolution under section 30-29-1430. Section 30-29-748 has been added to provide a basis for relief for shareholders of any corporation if the directors are deadlocked or acting fraudulently, requiring a showing of actual or threatened irreparable injury. This section is in addition to other shareholder remedies provided by the IBCA and could, for example, be sought by a shareholder in lieu of involuntary dissolution under section 30-29-1430(a)(2). (Section 71, PP 56-57)
- 15 **30-29-749. Judicial Determination of Governance Disputes.** This new section provides subject matter jurisdiction to the specified court to resolve certain corporate governance disputes and establishes an expedited procedure for doing so. The purpose of such a proceeding is to prevent a corporation from being immobilized by controversies with respect to the identity of its directors or officers, the members of any committee of its board of directors, or the results or validity of shareholder votes. (Section 72, PP 57-59)
- 16 **30-29-802. Director Qualifications.** Clarifications of the scope and operation of qualifications for nomination and election as directors. (Section 74, P 59, LL 24-45)
- 17 **30-29-826. Submission of Matters for Shareholder Vote.** "force the vote" provisions in fundamental transactions by permitting directors to submit matters to shareholders for action without director recommendation. (Section 89, P 65, LL 45-48)
- 18 **30-29-870. Business Opportunities.** This section permits corporations to include in their articles of incorporation a provision that limits or eliminates a director's or an officer's duty to present a business opportunity to the corporation. (Section 112, P 82, LL 1-39)
- 19 **Part 13. Appraisal Rights.** Modernization of the appraisal remedy for dissenting shareholders, including by reintroducing the "market out" provision for noninterested transactions. (Sections 132- 144, PP 101-115)
- 20 **Part 16. Corporate Records and Reports and Inspection Rights.** Revisions to address, among other things, the obligations of corporations to make financial statements available to shareholders, the maintenance of corporate records, and the inspection rights of shareholders and directors of corporations. (Sections 159 - 167, PP 125-131)

The following sections are repealed, but we do not consider the repeal to be a significant change for the reasons explained below:

- 30-29-628 (Section 39, P 35, LL 45-46); The 2016 Revision of the Model Act eliminated this provision as unnecessary, although there was no intention to reject the proposition for which it has stood—namely, that a corporation may apply the proceeds of a share issuance toward the expenses of selling or underwriting the issuance. We followed the lead of the Model Act and eliminated the section as unnecessary.
- 30-29-860 (Section 107, P 77, LL 15-16); The section is replaced by new section 860 (Section 108, P 77, L 20 to P 78, L25).
- 30-29-1606 (Section 164, P 130, LL 10-11); This section is no longer in the Model Act. I think it is essentially covered by unclaimed property law. Under Idaho’s unclaimed property law, stock is assumed abandoned if the location of the owner is not known after 5 years. I think it makes sense to require the corporation to continue to send notices for the five years required by the unclaimed property law.
- 30-29-1620 (Section 165, P 130, LL 12-13); Replaced by new 1620 (Section 167, P 130, L 19 to P 131, L 36).
- 30-29-1621 (Section 166, P 130, LL 14-15). This section is no longer in the Model Act. The committee felt that this section could be easily overlooked since it is not included with the topics to which the section relates. This section is likely to just be a trap to catch someone that doesn’t realize they are required to send out the notices. There is no reason to treat these topics different than other corporate information.

When the current IBCA was adopted in 1997, it included some differences from the Model Act then in effect. **The proposed new IBCA continues the following Idaho differences from the Model Act:**

- 1 30-29-620(e). Subscription Agreements.** The current IBCA added a subsection to the Model Act to emphasize that a subscription agreement must be in writing. This addition is continued in the proposed new act. (Section 31, P 31, LL 30-33)
- 2 30-29-621(b). Consideration for Issuance of Shares.** The Model Act includes “contracts for services to be performed” as permissible consideration for the issuance of shares. The current version of the IBCA does not include this as permissible consideration due to the restriction of the Idaho Constitution that allows shares to be issued for “services performed” but not for services “to be performed.” This change to the Model Act is continued. (Section 32, P31, LL 39-42)
- 3 30-29-631(c) and (d). Treasury Shares.** The Model Act has eliminated the need to recognize the concept of treasury shares. The 1997 Idaho revisers, believed that there are some circumstances in which a corporation may wish to retain treasury shares. The proposed new act continues the Idaho additions from 1997. The definition of the term “treasury shares” in 30-29-140 and the restriction on the voting of treasury shares in 30-29-721(f) are also continued from the current IBCA. (Section 3, P 11, LL 24-28, Section 41, P 37, LL 9-14, Section 53, P 45, L 33)
- 4 Section 30-29-702(a)(2). Special Shareholder Meetings.** This subsection specifies the percentage of shareholder voting power required to call a special meeting of the shareholders. The proposed new act continues the increased percentages set in the current act. (Section 44, P 38, L 43 to P 44, L 8)

- 5 **Section 30-29-1407(c). Time Limit on Commencing Proceedings After Dissolution.** A dissolved corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice. Subsection (c) specifies how long after the notice is published a claim may be made. The Model Act provides for a three-year limitation period. The proposed new act continues the two-year limitation period that Idaho has followed even before the current act. (Section 151, P 119, LL 38-42)
- 6 **Annual Report for Secretary of State and Administrative Dissolution.** Since the 1997 version of the IBCA, the provisions for filing an annual report with the Secretary of State and administrative dissolution for failure to file the report have been customized to conform to the practices of the Idaho Secretary of State's office. Since the adoption of the UBOC, these provisions are found in chapter 21 of the UBOC, and is the same for all business organizations. The Model Act provisions for these matters continue to be omitted.

The following are the members of the committee that took on the task of reviewing the Model Act for adoption in Idaho. The participation of some members was limited due to their schedules, but everyone was included on the communications about the work of the committee.

- | | |
|--|---|
| David S. Jensen - Chair
Parsons Behle & Latimer | David Eisele
Wright Law Offices, PLLC |
| Victoria J. Haneman - Reporter
Professor of Law | Jonathon Frantz
Post Falls, Idaho |
| Chris Nunez – Research Assistant
Student - Concordia University School of Law | Steve Frinsko
Hawley Troxell |
| David Arkoosh
Law Office of David Arkoosh | Joseph M. Giberman
Assistant General Counsel
Boise State University |
| David Bartels
Student - Concordia University School of Law | David Hammerquist
David Hammerquist Law Chartered |
| Dargie Bowersock
Law LLC | Christina W. Hardesty
Parsons Behle & Latimer |
| Paul M. Boyd
Stoel Rives LLP | Dale G. Higer
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| Kari Campos
Ball Ventures, LLC | James D. Hovren
Evans Keane LLP |
| Lisa M. Carlson
St. Luke's Health System | Kim Hunter
Idaho Secretary of State's Office |
| Robert J. Couch
Parsons Behle & Latimer | Cynthia A. Melillo
Cynthia A. Melillo PLLC |

Kelsey Jae Nunez
Kelsey Jae Nunez LLC

Jon Palmer
Parsons Behle & Latimer

Beck Roan
Idaho Court of Appeals

Leon Rothstein
Boise, Idaho

Jennifer A. Rush
Boise, Idaho

Paul S. Street
Hawley Troxell

Eric Taylor
Eberle Berlin

Peter D. Taylor
Peter Taylor Law

Cheryl W. Thompson
Idaho Power Company

Adam Warr
Deputy Attorney General

The committee chose not to request official Idaho State Bar approval of the proposed new IBCA due to the cumbersome nature of the approval process. As with most of the other recent entity legislation, neither the Idaho State Bar or the Business and Corporate Law Section has taken a position on this proposed legislation. The work of the committee was facilitated by the Business and Corporate Law Section and all members of the section were invited to participate on the committee.



Idaho Statutes

TITLE 30
CORPORATIONS
CHAPTER 29
GENERAL BUSINESS CORPORATIONS
PART 6
SHARES AND DISTRIBUTIONS

30-29-628. EXPENSE OF ISSUE. A corporation may pay the expenses of selling or underwriting its shares, and of organizing or reorganizing the corporation, from the consideration received for shares.

History:

[30-29-628, added 2015, ch. 243, sec. 61, p. 914.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 30
CORPORATIONS
CHAPTER 29
GENERAL BUSINESS CORPORATIONS
PART 8
DIRECTORS AND OFFICERS

30-29-860. DEFINITIONS. For purposes of this section and sections 30-29-861 through 30-29-863, Idaho Code:

(1) "Conflicting interest" with respect to a corporation means the interest a director of the corporation has respecting a transaction effected or proposed to be effected by the corporation, or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest, if:

(a) Whether or not the transaction is brought before the board of directors of the corporation for action, the director knows at the time of commitment that he or a related person is a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the director or a related person that the interest would reasonably be expected to exert an influence on the director's judgment if he were called upon to vote on the transaction; or

(b) The transaction is brought, or is of such character and significance to the corporation that it would in the normal course be brought, before the board of directors of the corporation for action, and the director knows at the time of commitment that any of the following persons is either a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the person that the interest would reasonably be expected to exert an influence on the director's judgment if he were called upon to vote on the transaction:

(i) An entity, other than the corporation, of which the director is a director, general partner, agent or employee;

(ii) A person that controls one (1) or more of the entities specified in subparagraph (i) of this paragraph or an entity that is controlled by, or is under common control with, one (1) or more of the entities specified in subparagraph (i) of this paragraph; or

(iii) An individual who is a general partner, principal or employer of the director.

(2) "Director's conflicting interest transaction" with respect to a corporation means a transaction effected or proposed to be effected by the corporation, or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest, respecting that a director of the corporation has a conflicting interest.

(3) "Related person" of a director means:

(a) The spouse, or a parent or sibling thereof, of the director, or a child, grandchild, sibling, parent, or spouse of any thereof, of the director, or an individual having the same home as the director, or a trust or estate of which an individual specified in this paragraph (a) is a substantial beneficiary; or

(b) A trust, estate, incompetent, conservatee or minor of which the director is a fiduciary.

(4) "Required disclosure" means disclosure by the director who has a conflicting interest of:

(a) The existence and nature of his conflicting interest; and

(b) All facts known to him respecting the subject matter of the transaction that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction.

(5) "Time of commitment" respecting a transaction means the time when the transaction is consummated or, if made pursuant to contract, the time when the corporation, or its subsidiary or the entity in which it has a controlling interest, becomes contractually obligated so that its unilateral withdrawal from the transaction would entail significant loss, liability, or other damage.

History:

[30-29-860, added 2015, ch. 243, sec. 63, p. 939.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 30
CORPORATIONS
CHAPTER 29
GENERAL BUSINESS CORPORATIONS
PART 16
RECORDS AND REPORTS

30-29-1606. EXCEPTION TO NOTICE REQUIREMENT. (1) Whenever notice is required to be given under any provision of this chapter to any shareholder, such notice shall not be required to be given if:

(a) Notice of two (2) consecutive annual meetings, and all notices of meetings during the period between such two (2) consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable; or

(b) All, but not less than two (2), payments of dividends on securities during a twelve (12) month period, or two (2) consecutive payments of dividends on securities during a period of more than twelve (12) months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(2) If any such shareholder shall deliver to the corporation a written notice setting forth such shareholder's then-current address, the requirement that notice be given to such shareholder shall be reinstated.

History:

[30-29-1606, added 2015, ch. 243, sec. 71, p. 966.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 30
CORPORATIONS
CHAPTER 29
GENERAL BUSINESS CORPORATIONS
PART 16
RECORDS AND REPORTS

30-29-1620. FINANCIAL STATEMENTS FOR SHAREHOLDERS. (1) A corporation upon written shareholder request shall furnish its shareholders annual financial statements or, if annual financial statements are not available, other appropriate accounting records, which may be consolidated or combined statements of the corporation and one (1) or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis.

(2) If any annual financial statements furnished pursuant to subsection (1) of this section are reported upon by a public accountant, his report must accompany them. If not, the statements must be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

- (a) Stating his reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and
- (b) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

History:

[30-29-1620, added 2015, ch. 243, sec. 71, p. 966.]

How current is this law?

Search the Idaho Statutes and Constitution



Idaho Statutes

TITLE 30
CORPORATIONS
CHAPTER 29
GENERAL BUSINESS CORPORATIONS
PART 16
RECORDS AND REPORTS

30-29-1621. OTHER REPORTS TO SHAREHOLDERS. (1) If a corporation indemnifies or advances expenses to a director under section 30-29-851, 30-29-852, 30-29-853 or 30-29-854, Idaho Code, in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the shareholders with or before the notice of the next shareholders' meeting.

(2) If a corporation issues or authorizes the issuance of shares for promissory notes, the corporation shall report in writing to the shareholders the number of shares authorized or issued, and the consideration received by the corporation, with or before the notice of the next shareholders' meeting.

History:

[30-29-1621, added 2015, ch. 243, sec. 71, p. 967.]

How current is this law?

Search the Idaho Statutes and Constitution



Senate Commerce & Human Resources Committee
March 5, 2019



Attachment 2

3/5/19

Governor’s Workforce Development Task Force Recommendations

Comprehensive Statewide Strategic Workforce Development Plan		
Workforce Development Council led initiatives	State Board of Education led initiatives	Idaho Career & Technical Education led initiatives
Empower an industry-led Workforce Development Council	Connect education to careers	Invest in Idaho’s Workforce Training Centers
Establish a sustainable funding mechanism for the Workforce Development Training Fund	Strengthen career advising	Increase workforce readiness skill development in K-12
Public outreach/engagement to increase career awareness and connection to training		Expand CTE Programs
Increase apprenticeships		

If Idaho does not act now there is a real risk of becoming a talent exporter and, losing businesses to those states that have created the required workforce.



Workforce Development Council Charge

“Increase the role and responsibilities of an industry-driven Workforce Development Council to champion the development and implementation of a statewide, strategic workforce development plan that meets industries’ needs today and tomorrow.”

- Improve the effectiveness, quality and coordination of programs and services designed to maintain a highly skilled workforce.
- Provide for the most efficient use of federal, state and local workforce development resources.
- Increase public awareness of and access to career education & training opportunities.

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IDAHO STEM
ACTION CENTER



IDAHO DEPARTMENT OF
HEALTH & WELFARE



IDAHO
COMMERCE



IDAHO
Career & Technical
Education



DEPARTMENT OF EDUCATION
OFFICE OF THE STATE

IDAHO
DEPARTMENT OF LABOR



VR
Idaho Division of
Vocational Rehabilitation



IDAHO WORKFORCE
DEVELOPMENT COUNCIL



Idaho State
Board of Education



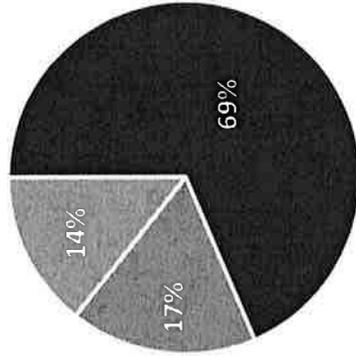
IDAHO WORKFORCE
DEVELOPMENT COUNCIL

Workforce Development Training Fund Programs

- **Employer Grant:** Awarded to a company to reimburse workforce development training costs.
- **Industry Sector Grants:** Granted to a consortium who has identified a training solution to alleviate an industry specific skill gaps.
- **Innovation Grants:** Designed to fund projects serving youth or adults and benefiting localized and/or rural efforts.

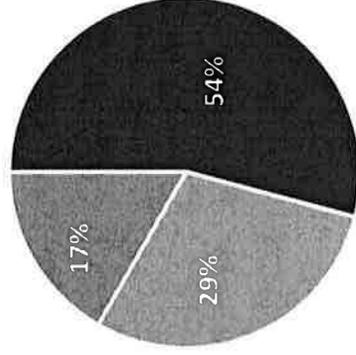
The council also strategically sponsors **Outreach Projects** that provide public information and outreach on career education and workforce training opportunities, including existing education and training programs and services not funded by the training fund.

Number of Grants by Type Calendar Year 2014-2017



- Employer Grant - 48
- Innovation Grant - 12
- Industry Sector - 10

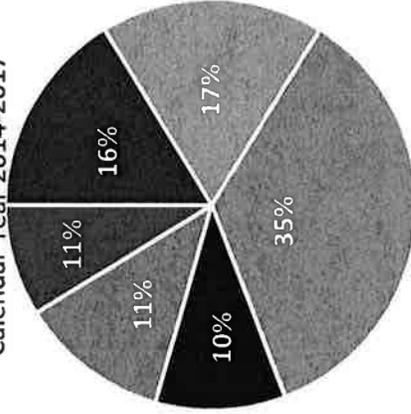
Number of Grants by Type Calendar Year 2018



- Employer Grant - 13
- Innovation Grant - 4
- Industry Sector - 7

Number of Grants by Region

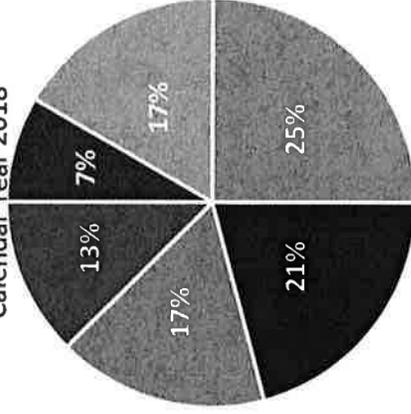
Calendar Year 2014-2017



- 1 - North - 11
- 2 - North Central - 12
- 3 - Southwest - 24
- 4 - South Central - 7
- 5 - South East - 8
- 6 - East - 6

Number of Grants by Region

Calendar Year 2018



- 1 - North - 2
- 2 - North Central - 4
- 3 - Southwest - 6
- 4 - South Central - 5
- 5 - South East - 4
- 6 - East - 3

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	Learning About Work			Learning Through Work			Learning At Work	
Category	Career Education	Employer Engagement	Externships	Internships	Pre-Apprenticeship	Co-op	On-the-Job Training	Apprenticeship
Definition	Teachers bring career information into the classroom.	Students learn by directly engaging with potential future employers.	Short practical work experiences to “ground-truth” theory.	A short-term position providing experience and exposure. May be paid or unpaid and for-credit or non-credit.	A program that teaches basic technical and job-readiness skills to prepare for an apprenticeship.	Structured method of classroom learning integrated with workplace experience where credit is received for both.	Individuals are taught by other employees how to complete a task while doing the job.	An “earn while you learn” model where on-the-job training is coupled with related instruction. Wage gains are incorporated and the experience culminates in industry-recognized credentials .
Activities	<p>Career Counseling</p> <p>Pathway Planning</p> <p>Presentations examining growth careers</p> <p>Industry Speakers</p> <p>Interviews with current employees</p>	<p>Host a tour for middle school/high school students or participate in school-organized career fairs.</p> <p>Provide an opportunity for students to job shadow.</p> <p>Become a mentor through the STEM Action Center’s Mentorship Portal.</p>	<p>Host a teacher during the summer to bring real-world experiences into the classroom.</p>	<p>Connect with college & career advisors at high schools to reach high-school interns.</p> <p>Connect with postsecondary institutions to reach college interns.</p>	<p>Partner with an industry association to develop a program to teach workplace skills.</p> <p>Host a competitive job-skill-building event requiring potential apprentices to collaborate on project-based activities.</p>	<p>Connect with a local community college or other postsecondary institution to identify cooperative education opportunities in areas of in-demand skills.</p>	<p>Partner with the Idaho Department of Labor, Division of Vocational Rehabilitation and/or Department of Health & Welfare to hire Veterans, individuals with disabilities, and other individuals seeking work.</p>	<p>Develop registered apprenticeship programs for hard-to-fill positions.</p> <p>Expand apprenticeship programs to School to Registered Apprenticeship to engage high school students.</p>

Brought to you by:



attachment 3
3/5/19

Idaho Workforce Development Council

Legislative Priorities



The Council works to champion the development and implementation of a statewide, strategic workforce development plan that meets industries' needs today and tomorrow.

Though the council does not have any pending legislation we support these initiatives, as well as policies that support college credit for work-based learning.



Idaho Career & Technical Education Initiatives

- **Post-Secondary Funding:**
 - **Capital Replacement** (FY20 – \$594,600) – Funds the replacement of outdated equipment in post-secondary institutions to ensure students are trained on equipment equivalent to what is used in industry today.
 - **Nuclear Energy Workforce** (FY20 - \$320,000) – Start nuclear safety training program at CEI and expand ESTEC program at ISU to meet increased workforce demand at INL and suppliers.
- **Workforce Readiness Incentive Grants:** (FY20 – \$200,000) - ICTE is working with the Governor's office and Idaho Business for Education to develop a program to incentivize school districts who graduate workforce ready students.
- **Middle School CTE:** (FY20 - \$200,000) – Starts the implementation of the new middle school CTE program which includes identifying standards, creating assessments, developing curriculum, and working with the identified pilot schools to ensure the new middle school CTE program is listed in school or district's FY21 course catalogs.
- **Program Alignment:** (FY20 - \$95,000) - Continue to connect and align CTE secondary and postsecondary programs to allow high school students opportunity to earn CTE college credit and move through school and into careers more efficiently.



Idaho Department of Labor Initiatives

- **Idaho Job Corps Demonstration Project:** (FY20 - \$4,323,500 Spending Authority) - The Idaho Department of Labor will partner with the College of Western Idaho to serve 150 students annually in the Treasure Valley and expand the program to serve an additional 150 students at other community colleges throughout Idaho during years two and three.
- **Apprenticeship Idaho:** The Idaho Department of Labor is using \$2.247 million in federal funds from the US Department of Labor to increase registered apprenticeships in nontraditional industries. Since the program's inception, registered apprenticeships have increased by 66 percent the number of Idahoans enrolled has more than doubled. The goal is to continue that growth by 20 percent annually until 2020 with a focus on nontraditional industries like advanced manufacturing, health care, high tech, and power and energy.



Idaho State Board of Education Initiatives

- **Opportunity Scholarship:** (\$7 million) - In FY18 1,780 eligible applicants did not receive the scholarship because of a lack of funds. If the proposal becomes law, the Opportunity Scholarship fund will increase from \$13.77 million to \$20.77 million. This provides a market-based approach to increasing higher education funding by awarding scholarships to students who choose which institution best fits their needs. This will support the 60% goal, increase responsiveness of institutions to student needs, and address access and affordability.



Idaho Department of Education Initiatives

- **All Idaho Students persevere in life and are ready for college and careers:**
 - **Implementing Recommendations of the Task Force for Improving Education (K-12):** In 2013 the Task Force for Improving Education (K-12) recommended 20 ways Idaho could better prepare students to achieve success. These recommendations have helped shape Department of Education initiatives and objectives. The FY20 budget recommendation includes funding to continue implementing the task force recommendations, including Literacy Proficiency (\$26 million), Master Educator Premiums (\$7.2 million), and Advanced Opportunities (\$3 million).
- **Idaho attracts and retains great teachers and leaders:**
 - **Strengthening the Career Ladder to Improve Teacher Pay:** The FY20 budget recommendation includes funding the fifth year of the career ladder (\$48 million) and increasing the salary for a newly credentialed teacher to \$40,000 (\$11.2 million).



Idaho STEM Action Center Initiatives

- **Computer Science Initiative: (FY 20 - \$1M)** – Onetime funding for the Computer Science education initiative including educator professional development, camps, student competitions, and grants. As a national leader in Computer Science education, and in partnership with other state agencies, Idaho STEM Action Center will work collectively to build a workforce prepared to fill the growing number of Computer Science jobs available in Idaho.



Bureau Of Occupational Licenses

Idaho Bureau of Occupational Licenses Initiatives

- **Water/Wastewater Apprenticeship Rule Changes:** The proposed changes will reduce barriers and provide additional pathways to licensure through apprenticeships for those seeking jobs in the drinking water and wastewater professions.



Workforce Development Training Fund 2018 Annual Report

Idaho Workforce Development Council
State of Idaho
Brad Little, Governor

*Attachment 5
3/5/19*

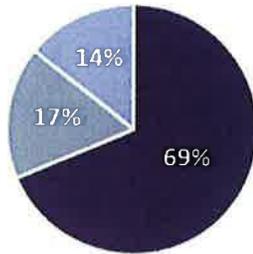
In late 2017, Governor C.L. “Butch” Otter issued an executive order to move the Idaho Workforce Development Council to the Executive Office of the Governor following recommendations from the Workforce Development Task Force. At that time, the Council was re-comprised to increase the role of industry in addressing workforce challenges facing all of Idaho’s employers. The legislature codified changes to the structure of the Council under House Bill 432 and shifted responsibility of the Workforce Development Training Fund (a dedicated fund generated by a 3% offset of unemployment insurance taxes) to the Council. The charge given to the Council by the Governor and legislature is to champion the development and implementation of a statewide, strategic workforce development plan that meets industries’ needs today and tomorrow. The Council now serves as a coordinating body across state agencies, education, and economic development partners in order to address one of the most critical issues threatening the continued growth of Idaho’s economy – developing a skilled workforce that meets the needs of Idaho’s employers.

One of the key achievements of the Council this past year is conducting a complete review and update to the policies of the Workforce Development Training Fund. The goals for the training fund are:

1. Increase the economic mobility of Idahoans through training that leads to wage gains and retention.
2. Provide timely assistance to businesses while shifting focus to broader talent pipeline development strategies that serve multiple employers.
3. Support growth of the economy by assisting employers with job creation and integration of technology, specifically through the development of skills in their existing and/or new employees.
4. Provide a return on investment to Idahoans as evidenced by increased wages, job creation, capital investment, retention of Idaho’s workforce, credential attainment and/or customer satisfaction (employer and trainee).
5. Promote innovation in talent development.
6. Encourage replication of best practices in talent pipeline development.

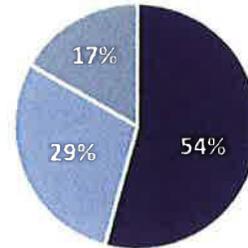
The following charts reflect the Council’s priority to shift focus from helping employers one-at-a-time to broader sector strategies. From the inception of the Industry Sector Grant program in 2014 to the end of 2017, 14% of the grants awarded were sector grants. In this past calendar year, the Council has increased that to 29% of the grants awarded while focusing on supporting efforts throughout the entire state.

Number of Grants by Type
Calendar Year 2014-2017



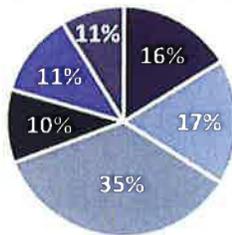
- Employer Grant - 48
- Innovation Grant - 12
- Industry Sector - 10

Number of Grants by Type
Calendar Year 2018



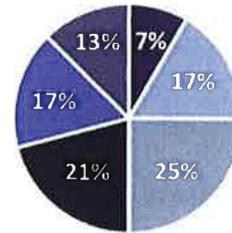
- Employer Grant - 13
- Industry Sector - 7
- Innovation Grant - 4

Number of Grants by Region
Calendar Year 2014-2017



- 1 - North - 11
- 2 - North Central - 12
- 3 - Southwest - 24
- 4 - South Central - 7
- 5 - South East - 8
- 6 - East - 6

Number of Grants by Region
Calendar Year 2018



- 1 - North - 2
- 2 - North Central - 4
- 3 - Southwest - 6
- 4 - South Central - 5
- 5 - South East - 4
- 6 - East - 3

The Council has also started funding Outreach Projects to meet the responsibility of increasing public awareness of, and access to, career education and training opportunities, as added to the eligible uses of the Workforce Development Training Fund in House Bill 432. Future reports will include metrics and success stories on the use of the fund for these efforts to better connect education to careers.

Workforce Development Training Fund



YEARLY FINANCIAL SUMMARY for FY2017 & FY2018 (UNAUDITED)

	ACTUAL FY2017 7/1/16 - 6/30/17	ACTUAL FY2018 7/1/17 - 6/30/18
Beginning Cash Balance	\$13,070,130	\$13,656,183
Revenue		
Collections*	\$5,111,328	\$7,162,073
Interest	\$118,322	\$252,542
Total Revenue	\$5,229,650	\$7,414,615
Expenditures		
WDTF Grants	\$3,849,810	\$2,338,801
Administrative Expenses	\$793,787	\$922,510
Total Expenses	\$4,643,597	\$3,261,311
Ending Cash Balance	\$13,656,183	\$17,809,487
Outstanding Grant Obligations	\$6,201,946	\$4,858,815
Ending Unobligated Balance	\$7,454,237	\$12,950,672

*Includes a \$2.5m general fund transfer into the Workforce Development Training Fund in FY18 to offset the impact of the unemployment insurance tax rate reduction passed in 2018.

Workforce Development Training Fund

JANUARY 1, 2018 THROUGH DEC. 31, 2018

Employer Grants

Direct grants provided to new and expanding business with an emphasis on transferrable skills and structured training programs.

	COMPLETED	ACTIVE*
Total Contracts-----	8	17
Amount Awarded-----	\$4,704,841	\$8,336,614
Total Expended-----	\$4,331,272	\$1,323,805
Average Hourly Wage-----	\$17.46	\$20.83
Number of Trainees -----	1,607	5,152
Average Cost per Trainee -----	\$2,695	\$1,618

Industry Sector Grants

Education institutions partner with three or more industry partners who provide a cash match and/or in-kind resources.

	COMPLETED	ACTIVE*
Total Contracts-----	1	7
Total Awarded-----	\$244,341	\$1,602,433
Total Expended-----	\$175,733	\$269,587
Average Hourly Wage-----	\$16.00	\$16.16
Number of Trainees-----	30	838
Average Cost per Trainee-----	\$5,858	\$1,912

Innovation Grants (formerly Micro-Grants)

Community consortiums of business, education and other partners to solve workforce issues.

	COMPLETED	ACTIVE*
Total Contracts-----	2	4
Total Awarded-----	\$40,800	\$67,899
Total Expended-----	\$40,629	\$23,135
Average Hourly Wage-----	\$15.74	\$15.10
Number of Trainees-----	84	100
Average Cost per Trainee-----	\$484	\$679

*Information provided for active grants show planned wages, trainees and cost per trainee.

Award Highlights

The fund, established in 1996, is one of the state’s most powerful workforce development tools available to support new and existing businesses as they seek to relocate or expand.

Highlights from just a few of the companies and organizations that have been boosted through the program illustrate not just the economic impact of the program, but also the human factor.

Region 1 - Northern Idaho

North Idaho College, Health Career Pathway Solutions (Coeur d’Alene) – industry sector grant

Period of Performance: July 1, 2018, through June 30, 2020

Total Dollars Awarded: \$207,590.19

Estimated Number of People Trained: 54

Estimated Post-Training Wages: \$12.74/hour to \$14.55/hour



North Idaho College

North Idaho College received a \$207,590.19 Workforce Development Training Fund grant to support training more than 50 health care professionals through a partnership of six healthcare organizations - Kaniksu Health Services, Kootenai Health, Heritage Health, North Idaho Advanced Care Hospital, Northwest Specialty Hospital and the Rehabilitation Hospital of the Northwest. Funds are being used to train incumbent certified nurse assistants (CNAs), advancing them to medical assistants (MAs) and patient care technicians, positions in high-demand.

The grant project will also provide open enrollment in the Medical Assistant program for up to 21 individuals.

The MA training uses an apprenticeship model, allowing incumbent workers to “earn and learn” as they work towards certification and higher wages without having to quit working. Training includes a combination of classroom time and on-the-job training.

Award Highlights - (cont).



A total of 10 training sessions over the two-year length of the grant will include the medical assistant, patient care technician I and patient care technician II, and all who complete the training earn a certification. All classroom work takes place at NIC.

Participants can expect wage increases after earning certifications of approximately \$2 per hour plus benefits.

Employment for medical assistants in North Idaho is projected to grow 23.5% between 2016 and 2026, according to the Idaho Department of Labor. Healthcare support occupations are expected to increase 23.2% between 2016 and 2026, making them one of the fastest growing occupational groups in the country.

Region 2 - North Central Idaho

Clearwater County Economic Development (Orofino) – innovation grant

Period of Performance: June 1, 2018 to May 31, 2019

Total Dollars Awarded: \$7,418.25

Estimated Number of People Trained: 30

Estimated Post-Training Wages: \$7.50 to \$15/hour



Clearwater County Economic Development is using a \$7,418 Workforce Development Training Fund innovation grant to provide basic employee skills training for individuals participating in Clearwater County's Problem Solving Court.

Problem Solving Courts, a judicial branch of the Idaho Supreme Court, divert non-violent, substance abusing offenders from prison and jail into treatment. This project involves training individuals for employment who have an agreement with the court system to make positive changes in their lives and behavioral patterns.



Training will focus on basic math, Microsoft Word and Excel courses through an online, self-paced curriculum. Each participant will be able to obtain certifications and participate in a workplace excellence workshop series, which emphasizes soft skills to expand individual capacity and employability characteristics.

Participants also will have the opportunity to obtain a C-STOP certification (Contractors Safety and Orientation Program), which is a nationally recognized workplace safety curriculum that meets U.S.

Award Highlights - (cont).

Occupational Safety and Health Administration standards. Following training, workers can expect to find jobs earning wages up to \$15 per hour.

Clearwater County Economic Development is matching the grant with \$7,418 of in-kind support.

This project will become another incentive for court participants to enter into gainful employment. According to [Idaho Problem Solving Courts website](#), “a decade of research indicates that Drug Courts reduce crime by lowering re-arrest and conviction rates, improving substance abuse treatment outcomes and reuniting families and also produce measurable cost benefits.”

Region 3: Southwestern Idaho

Associated General Contractors of America Inc., Idaho Branch (Boise) — industry sector grant

Period of Performance: Oct. 1, 2018 to July 31, 2020

Total Dollars Awarded: \$250,000

Estimated Number of People Trained: 180

Estimated Post-Training Wages: \$13.92/hour



Idaho’s construction industry is booming, but finding workers with the skills and knowledge to fill the positions required to keep up with demand has been challenging.

That was the impetus for the Idaho Chapter of the Associated General Contractors of America to apply for a Workforce Development Training Fund industry sector grant to fund employer-driven solutions. The Idaho AGC is working with community partners and six colleges to provide a series of nine, four-week long courses in construction training designed to recruit unskilled and/or underemployed individuals to the industry.

For several months Idaho had the fastest rate of growth in construction, but the industry couldn’t find applicants for the jobs, said Wayne Hammon, CEO of Idaho AGC. Using a pre-employment training model, similar to one used in Denver, Hammon and his organization decided to apply for the grant to implement that same training model across Idaho.

AGC wants to introduce the basics of construction to people who may never have considered working in the construction industry. The group intends the basic skills training program to encourage people that there are not only job opportunities, but also careers for them in industry.

Award Highlights - (cont).

Over the 24-month span of the grant, AGC plans to train 180 individuals in the four-week courses. Week one is construction basics and career options. Week two is construction math and job types. Week three is building techniques and job types. Week four covers professional development such as developing resumes, practicing interview skills, launching a job search and culminates in a hiring fair. The courses will be offered at the College of Western Idaho, the College of Southern Idaho, the College of Eastern Idaho, North Idaho College, Lewis Clark State College and Idaho State University.



Partners helping to recruit trainees include the Idaho Department of Health and Welfare, Idaho Division of Vocational Rehabilitation, Idaho Department of Labor, Wyakin Warrior Foundation, Centennial Job Corps, AFL-CIO, Department of Veterans Affairs, International Rescue Committee, Idaho Office for Refugees and the Boise Rescue Mission.

ACG anticipates 135 individuals will find employment within 60 days of completing the training with an anticipated starting hourly wage of \$13.92 plus benefits.

Industry partners and AGC members, who have provided input to the training curriculum with the intent to hire individuals after their training is completed, include McAlvain Companies Inc.; HK Contractors Inc.; Wright Brothers, The Building Company; Extreme Excavation Inc.; ESI; and Starr Corporation.

Each of these partners are providing match for materials, student tuition and other expenses.

Region 3 – Southwestern Idaho Woodgrain Millwork Inc. - Emmett

Period of Performance: Jan. 1, 2018 to Dec. 31, 2020

Total Dollars Awarded: \$107,867

Estimated Number of People Trained: 52

Estimated Post-Training Wages: \$20.24/hour



When Fruitland-based Woodgrain Millwork Inc. purchased the Emmett sawmill, it was a commitment of expansion and change. The company invested millions to remodel and upgrade the aging facility to a state-of-the-art modern sawmill.

With such changes comes the need for workers with updated skill sets – in this case, moving from a labor-intensive, high-touch model to a knowledge-intensive, low touch one. The

Award Highlights - (cont).

Workforce Development Training Fund employer grant of \$107,867 is a critical element in providing the training required to bring the workforce up to speed with the updated mill.

Using a combination of internal training and external vendor training, the skills workers will learn range from technical specifics of how scanning and optimization works, to the advanced maintenance required of high-tech sawmilling, to continuous improvement and how to work in teams.

Train-the-trainer format using Training Within Industry (TWI) methods is the primary approach to the internal, site-specific topics. External technical training covers topics such as programmable logic controls and hydraulic training, along with industry-specific subjects such as saw filing, kiln drying and lumber quality.

Vendors providing external training include Boise State University, Tech Help, College of Western Idaho and Hew Saw US, manufacturers of sawing machines.



Woodgrain intends to train 52 workers for new permanent full-time positions at an hourly average wage of \$20.24 plus benefits.

The workers will be training for a myriad of positions, including electrician, debarker operator, controller, lead millwright, log buyer, kiln operator, heavy equipment mechanic, production manager, scaler, saw filer, sales manager, stockroom/buyer, safety/financial supervisor and many others.

Region 4 -- South Central Idaho Cassia Joint School District #151 – industry sector grant

Period of Performance: Nov. 15, 2017 to Nov. 14, 2019

Total Dollars Awarded: \$248,745

Estimated Number of People Trained: 42

Estimated Post-Training Wages: \$14/hour



The Magic Valley has seen tremendous manufacturing growth in the past several years. In particular, Minidoka and Cassia counties have experienced the expansions of McCain Foods, High Desert Milk and Fabri-Kal and all have faced a shortage of machine operators. With county unemployment rates barely above 2 percent, finding workers became a challenge.

Award Highlights - (cont).

With the help of a \$248,745 Workforce Development Training Fund industry sector grant, the three companies teamed up with the Minidoka and Cassia school districts to develop a machine operator School to Registered Apprenticeship Program - or STRAP – for junior and seniors.

The training program involves 280 hours of classroom instruction and 1,820 hours of on-the-job training. Through this “earn while you learn” model students work part time during the school year and full time in the summer. They are paid an hourly wage between \$10 and \$12 after signing a contract to ensure they attend classes and show up for work.

Topics covered in the classroom training include safety management, food safety and security, maintenance, mechanical techniques, electrical and instrumentation systems, environmental safety, continuous improvement and workplace excellence skills.



When students complete the joint classroom and on-the-job training they will graduate from the program with a nationally recognized credential from the U.S. Department of Labor.

Students who complete the STRAP program and have graduated from high school are offered full-time permanent positions, including benefits with the partner companies - McCain Foods, High Desert Milk and Fabri-Kal. The new workers can expect to earn average hourly wages of \$14.

The team has created and structured the machine operator apprenticeship program so the students of Minidoka and Cassia School Districts in each succeeding class, year after year, will be trained and have full-time employment opportunities with the industry partners, thus creating an ongoing workforce pipeline.

Region 5 – Southeastern Idaho Spudnik Equipment Company (Blackfoot) – employer grant

Period of Performance: June 1, 2017, to May 31, 2019

Total Dollars Awarded: \$158,271.25

Estimated Number of People Trained: 20 new; 250 retrained

Average Estimated Post-Training Wages: \$15.36/hour



North America’s largest potato equipment manufacturer is training 20 individuals for new, permanent full-time positions and retraining 250 current workers for its facilities in Blackfoot with the help of a \$158,271 Workforce Development Training Fund employer grant. Spudnik continues to grow each year and expects to increase the size of its workforce by 20 percent over the next five years to keep up with demand. In addition to normal growth, the

Award Highlights - (cont).

company has an aging workforce and anticipates 10 percent of its workforce will retire over the next five years, taking a lot of institutional knowledge with them when they retire.

Twenty-five individuals will be trained through registered apprenticeship programs as assemblers, machinists, welders and fabricators at starting at \$12 per hour. Wage increases are built into the programs so that workers are compensated as their skills increase.



The 250 workers are participating in retraining for those same positions as well as laser operators, nesters, manufacturing engineers, production managers, IT support specialists, maintenance technicians, mechanical, electrical and hydraulic engineers, production control specialists, engineer support specialists, service technicians and drafters. Hourly wages for incumbent workers after training will range from \$13 to \$24 plus benefits.

An extensive array of skills are included in the training, provided by several organizations and equipment manufacturers such as Underwriters Laboratories, Idaho State University, Cadex, TPCTrain CO, Bystronic, TRUMPF, Bigfoot and IFPS. A combination of classroom instruction, hands-on practice and on-the-job training will be used over the two-year length of the grant.

Region 6 – Eastern Idaho

College of Eastern Idaho (Idaho Falls) – industry sector grant

Period of Performance: Aug. 31, 2018 to Aug. 30, 2020

Total Dollars Awarded: \$250,000

Estimated Number of People Trained: 180 current; 40 new

Estimated Post-Training Wages: \$17.24/hour



The Idaho Department of Labor projects a 17.5 percent increase in welder jobs statewide between now and 2026. Many of those openings will be caused by retirements. Nationwide, the projected shortage is even higher, and southeastern Idaho wants to be ready.

The College of Eastern Idaho obtained a \$250,000 Workforce Development Training Fund industry sector grant to counter the current shortage and plan for future by training 220 welders over a two-year period.

The program was developed among a partnership of southeastern Idaho organizations that provided cash match as a shared investment in building up the area's welder workforce.

Award Highlights - (cont).

Businesses providing the matching funds are Premier Technology, American Fabrication Inc., Cives Steel Company, Idaho Steel, Spudnik Inc. and the Idaho National Laboratory.

The six-week course takes place on Saturdays, 8 a.m. to 5 p.m., at the college's Workforce Development Department where part-time instructors teach modularized basic and advanced welding techniques. The training is based on standards established by Idaho Career & Technical Education's Idaho Welding Technology Program.



Curriculum includes a combination of classroom presentations and hands-on welding practice. In the sixth and final class, students complete a skills assessment to demonstrate competency. Students earn SkillStack welding badges based on results. Badges indicate an individual has mastered a particular skill set and increases employability.

Initially, there will be nine rounds of training year-round to meet the goal of 220 trainees. Post training, the average hourly wages students can expect will vary depending on experience with an average of \$17.24, plus benefits.

Grant Summaries



ACTIVE CONTRACTS CY2018								
Type of Grant	Company Name	Start Date	End Date	Amount Awarded	Expenditures thru 2018	Balance	# of Trainees	Average Wage
Employer	Basic American Foods	10/18/2018	1/31/2019	\$54,991	\$0.00	\$54,991	856	\$16.58
Employer	CS Beef Packers	10/1/2016	9/30/2019	\$1,099,935	\$0.00	\$1,099,935	701	\$17.28
Employer	DA Glass	7/1/2018	6/30/2020	\$110,655	\$0.00	\$110,655	55	\$14.00
Employer	Diversified Fluid	1/1/2017	12/31/2019	\$308,949	\$295,623.49	\$13,326	96	\$19.54
Employer	Fresh Air Manufacturing	1/1/2016	12/31/2019	\$80,000	\$32,633.69	\$47,366	23	\$20.87
Employer	House of Design	8/15/2017	8/14/2019	\$99,984	\$2,031.00	\$97,953	34	\$31.78
Employer	McCain	8/13/2017	8/12/2019	\$2,500,000	\$0.00	\$2,500,000	753	\$20.60
Employer	Orgill Inc.	11/1/2016	10/31/2019	\$151,032	\$19,138.10	\$131,894	167	\$16.93
Employer	Premier Technology	6/14/2018	6/13/2020	\$423,690	\$0.00	\$423,690	254	\$18.35
Employer	Semiconductor Components Ind	6/13/2017	6/12/2019	\$335,959	\$133,188.88	\$202,770	84	\$25.18
Employer	Simplot	12/1/2018	11/30/2020	\$552,438	\$0.00	\$552,438	490	\$42.17
Employer	Sorrento Lactalis	7/1/2016	1/8/2019	\$282,927	\$0.00	\$282,927	91	\$27.02
Employer	Spudnik	6/1/2017	5/31/2019	\$158,271	\$36,999.90	\$121,271	270	\$15.36
Employer	Paylocity Corp.	12/1/2015	11/30/2018	\$1,200,000	\$790,789.24	\$409,211	500	\$21.09
Employer	Unitech	4/1/2018	3/31/2020	\$822,337	\$0.00	\$822,337	421	\$14.47
Employer	Western States Equipment	6/5/2017	6/4/2019	\$48,243	\$13,400.85	\$34,842	18	\$12.00
Employer	Woodgrain Millwork	1/1/2018	12/31/2020	\$107,203	\$0.00	\$107,203	52	\$20.08
Micro	Clearwater CNA	9/17/2018	9/16/2019	\$10,481	\$0.00	\$10,481	14	\$14.00
Micro	Clearwater Problem Solving Court	6/1/2018	5/31/2019	\$7,418	\$0.00	\$7,418	30	\$17.25
Micro	Franklin County LPN	8/20/2018	8/19/2019	\$25,000	\$0.00	\$25,000	4	\$17.00
Micro	Lewiston High School Dist. #1	7/1/2017	5/31/2019	\$25,000	\$23,134.72	\$1,865	52	\$14.00
Sector	Cassia JSD #151	11/15/2017	11/14/2019	\$248,745	\$18,532.00	\$230,213	42	\$14.00
Sector	CEI Nursing	9/1/2017	8/31/2019	\$79,516	\$21,899.52	\$57,616	13	\$17.85
Sector	CEI Nuclear	8/1/2018	7/31/2020	\$84,000	\$0.00	\$84,000	160	\$13.25
Sector	CEI Welding	8/31/2018	8/30/2020	\$250,000	\$0.00	\$250,000	180	\$17.24
Sector	Idaho AGC	8/1/2018	7/31/2020	\$250,000	\$0.00	\$250,000	180	\$13.92
Sector	NIC Health Careers	6/1/2018	5/31/2020	\$207,590	\$0.00	\$207,590	49	\$14.55
Sector	NIC Wood Products	3/1/2017	2/28/2019	\$482,582	\$229,155.61	\$253,427	214	\$20.00

COMPLETED CONTRACTS CY 2018								
Type of Grant	Company Name	Start Date	End Date	Amount Awarded	Expenditures thru 12/31/18	Balance	# of Trainees	Average Wage
Employer	AMFEC Inc	4/18/2016	4/17/2018	\$197,505	\$197,505.00	\$0	54	\$20.58
Employer	Amy's Kitchen	12/1/2014	12/31/2018	\$2,000,000	\$2,000,000.00	\$0	667	\$17.00
Employer	Clif Bar & Company	9/1/2014	12/31/2018	\$2,016,000	\$2,016,000.00	\$0	252	\$21.43
Employer	Comenity Servicing	3/1/2016	2/28/2018	\$87,302	\$0.00	\$87,302	364	\$13.52
Employer	Federal Cartridge Co.	7/1/2016	6/30/2018	\$202,500	\$0.00	\$202,500	135	\$17.38
Employer	Hearthside Food Solutions	10/15/2015	10/14/2018	\$83,120	\$60,077.60	\$23,042	87	\$22.00
Employer	R.C. Bigelow	7/1/2016	6/30/2018	\$58,915	\$22,692.73	\$36,222	31	\$19.61
Employer	St. Joseph Regional Medical Center	3/1/2016	3/28/2018	\$59,500	\$34,996.28	\$24,504	17	\$25.00
Micro	ISU Construction	3/21/2018	3/30/2019	\$15,902	\$15,853.16	\$49	80	\$16.00
Micro	Oneida County LPN	8/1/2017	9/30/2018	\$24,898	\$24,775.77	\$122	4	\$10.46
Sector	University of Idaho Fire Science	5/1/2016	4/30/2018	\$244,341	\$175,733.32	\$68,608	30	\$16.00

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:30 P.M.
Room WW54
Thursday, March 07, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of February 26, 2019	Senator Ward-Engelking
<u>S 1073</u>	Relating to Underground Facilities Damage Prevention	Jeffrey Diehl, Chairman, Idaho Damage Prevention Board
<u>S 1138</u>	Relating to Electrical Contractors and Journeymen	Marty Durand, Idaho Building Trades
<u>H 112</u>	Relating to Insurance - Amending Existing Law	John Mackey, United Heritage Financial Group
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Gubernatorial Appointment of Jani Revier, Director, Idaho Department of Labor	Jani Revier
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Gubernatorial Appointment of Kelley Packer, Bureau Chief, Idaho Department of Occupational Licenses	Kelley 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	Sen Thayn
Vice Chairman Agenbroad	Sen Souza
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Guthrie	

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 07, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:40 p.m.

Chairman Patrick announced several members would be coming and going due to various committee pictures being taken.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 26, 2019. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1073 **Relating to Underground Facilities Damage Prevention. Jeffrey Diehl**, Engineered Structures, Incorporated (ESI) employee and Chairman, Idaho Damage Prevention Board (IDPB), reported Idaho Code § 55-2205(2) requires underground facility owners to locate and mark all underground facilities in the State of Idaho. Some underground facility owners are also end user consumers of utility services or commodities. Service laterals are underground facilities located in public rights-of-way or utility easements. **Mr. Diehl** pointed out that end users do not have operational control of locational knowledge of, or the expertise or equipment to locate or mark service laterals, despite owning them, because the laterals are in rights-of-way or utility easements. This legislative proposal will exempt end users from the requirement to locate and mark service laterals. This legislative proposal will also require underground facility owners have the ability to locate and mark service laterals. If disputes arise about liability or damages, other sections of code would apply. This bill does not address these issues.

DISCUSSION: **Chairman Patrick** remarked he wanted the Committee to have a clear explanation of this bill and thanked Mr. Diehl for his presentation.

Senator Thayn queried what the definition of a service lateral had to do with water. **Mr. Diehl** confirmed that service laterals addressed in the bill involved water laterals including stormwater sewer laterals.

Senator Burgoyne stated he thought he might need to make a Senate Rule 39(H) disclosure. He has a relative who works for ESI and it seemed appropriate to make the disclosure.

TESTIMONY: **Wayne Hammon**, Idaho Associated General Contractors, testified in support of this bill. He stated that currently, no one is marking underground laterals and that there is a likelihood of these facilities being hit if not marked.

Jennifer Visser, Idaho Power, testified in support of this bill.

DISCUSSION: **Senator Thayn** questioned **Ms. Visser** about her interest in this bill. **Ms. Visser** reported that all of the utilities are working in the right-of-way and it is advantageous for all to be responsible for marking underground laterals.

MOTION: **Senator Guthrie** moved to send **S 1073** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1138 **Relating to Electrical Contractors and Journeymen. Marty Durand**, Idaho Building Trades (IBT), remarked the purpose of this proposed legislation is to allow qualified electricians to work in Idaho under a provisional license, until they are able to take and pass the journeyman electrician's examination.

Ms. Durand stated there is no fiscal impact to the General Fund because this provisional license assists newcomers from out of state to fill needed jobs.

Ms. Durand reported **S 1138** is the result of compromise. The IBT has worked with the Idaho Association of Commerce and Industry (IACI) and the Association of General Contractors (AGC) in finding a way to meet the needs of industry, while still maintaining high standards for licensed electricians and protecting public safety. When an out-of-state electrician wants to work in Idaho and their journeyman license is not reciprocal, they have to sit for and pass the journeyman exam before they can go to work as a journeyman. **Ms. Durand** affirmed this bill would allow that electrician to work until they can take the exam.

Ms. Durand explained the changes the bill addressed and pointed out a provisional journeyman can do the same work as a journeyman, with one exception. A provisional journeyman cannot supervise apprentices. Only a licensed journeyman can provide on-the-job training and supervision for apprentices. A provisional journeyman must work under the supervision of a licensed journeyman. She noted the requirements for a provisional license. The person must meet the requirements of Idaho Code § 54-1007(4), which is four years out-of-state work experience or four years working as an apprentice. **Ms. Durand** cautioned the Committee that **S 1008** changes this requirement to 16,000 hours on the job, whether in or out of state. **Ms. Durand** remarked these are the people that can apply for a provisional license. She stated a provisional journeyman can take the journeyman exam, and if they pass, they are a journeyman. The duration of a provisional license is six months. In that six months, the provisional journeyman must take and pass the journeyman exam. If they do not, there is one six-month renewal. The exam must be passed within one year.

Ms. Durand reported this bill is designed to get qualified electricians on the job and working while they prepare for and take the journeyman electrical examination. The proposed amendment is to address a concern and clarify that an in-state electrician who has worked 16,000 hours does not have to become a provisional journeyman to continue working. They may become a provisional journeyman, if they apply. If they do not apply, that person can keep working as an apprentice, or sit for the journeyman exam.

Ms. Durand explained and quoted the amendment on page 4, line 10, Provisional Journeyman Electrician. She explained that any person who has met the requirements and who wished to perform the actual physical work of installing electrical wiring or equipment to convey electric current, while under the constant on-the-job supervision of a qualified journeyman electrician, shall be known as a provisional journeyman.

TESTIMONY:

John Eaton, Idaho Association of Commerce and Industry, testified in support of this bill. He remarked Idaho has reciprocity with some states, but California does not have the same type of license. In order for journeymen to work, they have to register as an apprentice until they can pass the test. This bill is a big benefit to modern manufacturing as electricians have to take care of those highly automated areas. The bill also allows a higher wage scale for a provisional journeyman which is a higher scale than an apprentice.

Chris Jensen, Administrator, Idaho Division of Building and Safety (IDBS), testified in opposition to the bill. He remarked the bill was not vetted through industry and not voted on by the Idaho Electrical Board.

MOTION:

Senator Guthrie moved to send **S 1138** to the 14th Order of Business for possible amendment. **Senator Ward-Engelking** seconded the motion.

Senator Guthrie stated Idaho has to move quickly to keep pace with business and the demands of industry. **Senator Burgoyne** mentioned he was in support of the bill.

VOICE VOTE:

The motion to send **S 1138** to the 14th Order of Business for possible amendment carried by **voice vote**.

H 112

Relating to Insurance - Amending Existing Law. John Mackey, United Heritage Financial Group, stated this legislation is intended to update certain sections of the Idaho Insurance Code dealing with investment and reporting requirements for domestic insurers and bring them in line with current day investment and economic conditions. The amendments to Idaho Code § 41-705 clarify the disclosure requirements regarding an officer or director's investments and adds a limited disclosure exemption for certain investments commonly found in 401(k) or other retirement accounts. The amendments to Idaho Code § 41-728 update and provide clarification regarding investment allowances for land and buildings used for home office purposes. The amendments to Idaho Code § 41-735 adjust the allowable investment levels for miscellaneous investments to bring them in line with most states.

Mr. Mackey stated there is no fiscal impact to the General Fund or any other state fund or expenditure. This legislation merely updates language to certain code provisions relating to investment restrictions and reporting requirements for domestic insurance companies.

Mr. Mackey reported he has met with the Idaho Department of Insurance (IDOI) on numerous occasions regarding this legislation and the IDOI has provided suggestions and input, which were incorporated into this bill. In addition, the Idaho Insurance Guaranty Association and the Idaho Life and Health Insurance Guaranty Association have reviewed this bill and there is no opposition.

Mr. Mackey gave an overview of the changes in the bill, specifically, the requirements for the insurer to maintain permanent records of all investments and loans, real estate investments, and miscellaneous investments.

PASSED THE GAVEL:

Chairman Patrick passed the gavel to Vice Chairman Agenbroad.

MOTION:

Senator Lakey moved to send **H 112** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

The Gubernatorial appointment of Jani Revier of Meridian, Idaho, Director Idaho Department of Labor (IDOL), term commencing January 7, 2019 and serving at the pleasure of the Governor. **Ms. Revier** said she is a fifth generation Idahoan, born and raised on a ranch in southern Idaho. She grew up in a family that recognized the importance of public service and has devoted her career to serving in state and federal government.

Ms. Revier gave an overview of her background. **Ms. Revier** stated her work experience and desire to serve the people of Idaho make her well-qualified for the position. In her short time at the IDOL, **Ms. Revier** commented she has quickly grown to appreciate the agency employees who are working every day to make a difference. There is a long list of tremendous projects and life-changing initiatives underway. She gave a quick overview of programs, challenges, and opportunities at the IDOL.

Ms. Revier noted the IDOL administers the Unemployment Insurance program that provides benefits to workers who lose their jobs through no fault of their own and meet eligibility requirements. The IDOL also provides assistance to job seekers and Idaho employers through local offices; administers programs such as State Wage and Hour, Disability Determinations Services, Serve Idaho, Service to Veterans, and Foreign Labor Certification; provides research and analysis; and houses many more important functions that are too numerous to mention.

Ms. Revier outlined some of the exciting opportunities at the IDOL, such as Apprenticeship Idaho, and a federal grant to help Idaho businesses develop customized training programs specific to local needs. Since receiving funding from the U.S. Department of Labor in 2014, Apprenticeship Idaho is responsible for creating more than 160 registered apprenticeship programs in nontraditional industries, such as health care, information technology, advanced manufacturing, transportation, and energy. The IDOL was also recently awarded a three-year federal grant for a state-operated Job Corps experimental project. The IDOL will partner with the College of Western Idaho to serve 150 students annually in the Treasure Valley and expand the program to serve an additional 150 students at other community colleges throughout the state during years two and three. **Ms. Revier** remarked it is not an exaggeration to say this pilot project has made Idaho the envy of many other states.

Ms. Revier pointed out that Idaho's economy continues to be one of the strongest in the nation. While this is all great news, it presents some unique challenges for the IDOL. The IDOL's funding is counter-cyclical. When the economy is weak, federal funds to pay benefits and help people find work increase. Conversely, when Idaho's economy is doing well, federal funding declines. Because of the strong economy, the IDOL has experienced seven straight years of budget cuts for a 47 percent decrease in funding. Federal funding is expected to further decline in the coming fiscal year. The IDOL must find the balance of working within budget constraints and still delivering a quality and timely product. At the same time, the IDOL wants to insure they have the ability to ramp up quickly when the next recession occurs so they can provide unemployment insurance benefits and employment assistance to the citizens of Idaho.

Ms. Revier commented she looked forward to the challenges and opportunities ahead and she intends to keep working to make Idaho an even better place to live and work.

DISCUSSION:

Senator Lakey and **Ms. Revier** discussed her previous job as compared to this job. **Ms. Revier** reported the Idaho Division of Financial Management (IDFM) is more of an inward-facing agency and the IDOL is an outward-facing agency with a definite constituency. She remarked she was looking forward to the opportunity to work in an agency where there is interaction with the public.

Senators Martin and **Burgoyne** thanked Ms. Revier for her service and stated they were in support of her confirmation. **Senator Burgoyne** remarked Ms. Revier has the proper vision and is a very strong manager.

Vice Chairman Agenbroad announced that a quorum was no longer present. **Senator Martin** stated, however, pursuant to Senate Rule 20(A), business may continue. There were no objections.

GUBERNATORIAL APPOINTMENT HEARING:

The Gubernatorial appointment of Kelley Packer of McCammon, Idaho, Bureau Chief, Idaho Bureau of Occupational Licenses (IBOL), term commencing January 7, 2019 and serving at the pleasure of the Governor. **Ms. Packer** gave a brief overview of her career. She stated her schooling was focused around business management and marketing. She has managed many different businesses. Her family taught her not to complain unless she had a solution for the issue. In 2008 she was elected to the McCammon City Council. She served as a Representative for six years and was a member of the Your Health Idaho (YHI) Board. **Ms. Packer** has served on many boards. She is grateful for the employees at the IBOL who are amazing, dedicated people. **Ms. Packer** commented she is organized and a hard worker.

PASSED THE GAVEL:

Vice Chairman Agenbroad passed the gavel back to Chairman Patrick.

DISCUSSION:

Senator Martin questioned whether there would be changes in the administrative rules process and asked for her opinion. **Ms. Packer** clarified that both bodies of the Legislature have to pass all rules. **Ms. Packer** remarked that when rules are addressed, questions and concerns need to be addressed. Sometimes things are brought up that are a surprise. **Ms. Packer** reported that the House or Senate may not pass a rule because of some concerns that were brought up after testimony was closed. She stated concerns should be openly addressed and thoughts shared.

Vice Chairman Agenbroad commented that Ms. Packer has demonstrated what he admires most and that is she is a thoughtful and a very strong director.

Senator Guthrie agreed with Vice Chairman Agenbroad. He remarked that Ms. Packer had the courage to face and deal with issues.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:32 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AMENDED AGENDA #1
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Tuesday, March 12, 2019

NOTE CHANGE IN MEETING TIME; MEETING 1-2 P.M.

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes of February 28, 2019 Minutes of March 5, 2019	Senator Burgoyne Vice Chairman Agenbroad
<u>RS27083</u>	Unanimous Consent Relating to Collection Agencies	Senator Burgoyne
GUBERNATORIAL VOTE:	Committee Vote of the Gubernatorial Appointment of Jani Revier, Director, Idaho Department of Labor	Chairman Patrick
	Committee Vote of the Gubernatorial Appointment of Kelley Packer, Bureau Chief, Idaho Department of Occupational Licenses	Chairman Patrick
<u>H 144</u>	Relating to Barber and Cosmetology Services	Kris Ellis, Idaho Health Care Association
<u>H 177</u>	Relating to Public Employee Retirement System of Idaho (PERSI) - Re-employment of Certain Public Safety Officers	Representative Julianne Young
GUBERNATORIAL REAPPOINTMENT HEARING	Committee Consideration of the Gubernatorial Reappointment of Rod Higgins, State Insurance Fund Board	Rod Higgins
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Gubernatorial Appointment of Gregory Donaca, Idaho Health Insurance Exchange Board - Your Health Idaho	Gregory Donaca
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Gubernatorial Appointment of Nancy Merrill, Idaho Personnel Commission	Nancy Merrill

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 Agenbroad
Sen Martin
Sen Lakey
Sen Guthrie

Sen Thayn
Sen Souza
Sen Ward-Engelking
Sen Burgoyne

COMMITTEE SECRETARY

Linda Kambeitz
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MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 12, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:02 p.m.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 28, 2019. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Agenbroad moved to approve the Minutes of March 5, 2019. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**UNANIMOUS
CONSENT:** **Senator Burgoyne** asked for unanimous consent to send **RS 27083** to a privileged committee to print. There were no objections.

**GUBERNATORIAL
VOTE:** **Committee Consideration of the Gubernatorial Appointment of Jani Revier, Director, Idaho Department of Labor (IDOL).**

Senator Martin moved to send the Gubernatorial appointment of Jani Revier of Meridian, Idaho, as the Director of the IDOL, 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**. Senator Bayer will carry the appointment on the floor.

**GUBERNATORIAL
VOTE:** **Committee Consideration of the Gubernatorial Appointment of Kelley Packer, Bureau Chief, Idaho Bureau of Occupational Licenses (IBOL).**

Senator Guthrie moved to send the Gubernatorial appointment of Kelley Packer of McCammon, Idaho, as the Bureau Chief of the IBOL, to the floor with the recommendation that she be confirmed by the Senate. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. Senator Guthrie will carry the appointment on the floor.

H 144

Relating to Barber and Cosmetology Services. **Kris Ellis**, Idaho Health Care Association (IHCA), stated the proposed legislation would exempt those working in facilities licensed by the Idaho Department of Health and Welfare (IDHW), Division of Licensing and Certification, from being required to have a cosmetology license. The proposed exemption would include nurses and those who are delegated by a nurse to perform cosmetology services, as well as aides and volunteers who perform certain cosmetology services. The facilities licensed by the Division of Licensing and Certification include: nursing homes, assisted living facilities, certified family homes, intermediate care facilities, and hospitals. The exemption contained in the proposed legislation would simply codify what has been the standard in licensed facilities for decades.

Ms. Ellis reported there would be no fiscal impact to the General Fund or the boards that regulate the licensed facilities or the Board of Barbers and Cosmetology, because these unregulated providers of certain cosmetology services would continue to be unregulated. In addition, there would be no impact to licensure fees because no new fees are being added or subtracted under the proposed legislation. There has been no opposition.

MOTION:

Senator Guthrie moved to send **H 144** to the floor with a **do pass** recommendation. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

H 177

Chairman Patrick moved the hearing for this bill to the end of the agenda in order to provide time for Representative Young to arrive.

**GUBERNATORIAL
REAPPOINTMENT
HEARING:**

Committee Consideration of the Gubernatorial Reappointment of Rod Higgins, Idaho State Insurance Fund Board (ISIFB). A phone conference was held with Mr. Higgins as he was out of state for the month and unable to appear before the Committee. He gave an overview of his experience. He pointed out that cybersecurity was an issue that has been taken seriously by the ISIFB. **Mr. Higgins** stated his goal was to put money into technology for agents during the next year.

DISCUSSION:

Chairman Patrick remarked cybersecurity is an issue and was glad Mr. Higgins was being proactive.

Senator Lakey stated he was a member of the ISIFB, that he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. He thanked Mr. Higgins for serving and said he appreciated his leadership.

Senator Burgoyne asked Mr. Higgins for an overview of how workers' compensation premiums are working in the State of Idaho. **Mr. Higgins** stated many workers' compensation policies are sold and the climate in Idaho for workers' compensation is good.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Committee Consideration of the Gubernatorial Appointment of Gregory Donaca, Idaho Health Insurance Exchange Board - Your Health Idaho (YHI). **Mr. Donaca** gave a brief overview of his career. He stated he was the Chief Executive Officer (CEO) at Delta Dental, which is the largest stand-alone dental carrier in Idaho. There are approximately 380,000 members, with half being in Idaho. He remarked he had experience not only as a Certified Public Accountant (CPA), but in business and Information Technology (IT). He noted all of these experiences will help with the Finance Committee on the Your Health Idaho (YHI) Board. **Mr. Donaca** remarked YHI operates very well and the cost for members

is lower than that of the federal exchange. He stated he wanted to give guidance and support when asked and as needed.

DISCUSSION:

Chairman Patrick queried if Mr. Donaca saw any big changes in the YHI Exchange. **Mr. Donaca** noted that YHI is prepared for the impact of approximately 18,000 people leaving the YHI Exchange due to Medicaid expansion. He mentioned the YHI Exchange is one of the most successful in the United States.

Senator Burgoyne inquired if Delta Dental was involved with the YHI Exchange. **Mr. Donaca** clarified that Delta Dental was involved with approximately 1,000 people who are enrolled in the YHI Exchange and another 2,000 who have certified plans purchased through Delta Dental. He reported that if there was a vote and he felt he had a conflict, he would excuse himself. **Senator Burgoyne** remarked he thought there would be an advantage for people on the YHI Exchange to have dental coverage. **Senator Burgoyne** and **Mr. Donaca** had a conversation about the goals and objectives of the business model of the YHI Exchange and the challenge with insurance coverage for those who participate in the YHI Exchange and for those who do not participate. **Mr. Donaca** remarked that when people have dental coverage, they are two and a half times more likely to go to the dentist. He remarked it is extremely important that YHI continues their advertising campaigns. The YHI Exchange has a good relationship with many brokers, which needs to continue. **Mr. Donaca** stated that local events are held to increase awareness and to encourage people to enroll. All of that is key to keeping costs low and having the insurance carriers represented with plans that have good value.

Vice Chairman Agenbroad queried that with changes happening with Medicaid, what skill sets Mr. Donaca would bring to the YHI Exchange. **Mr. Donaca** pointed to his business experience, including that of being a CPA and working with IT, and indicated he realized with change management, there is a human element. He noted the Finance Committee must look at how Medicaid expansion will impact the people of Idaho and those who are on the YHI Exchange.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Committee Consideration of the Gubernatorial Appointment of Nancy Merrill, Idaho Personnel Commission (IPC). **Ms. Merrill** gave an overview of her career. She has served in government since 1995 and she has served on various committees. She has held numerous offices, including Mayor of the City of Eagle.

Ms. Merrill stated the most challenging part of her job as Director of Idaho Parks and Recreation was during the Great Recession when the Idaho State General Fund budget was cut by 80 percent. She had to be creative. **Ms. Merrill** stated she had to reinvent the budget by examining the reserve fund. She had to decrease full-time employees and reduce seasonal staff. Fund raising opportunities were expanded and marketing and promotional capabilities were developed. Capital improvements to public health and safety, and revenue generation were redirected. Dedicated funds were secured to help replace General Funds. The Idaho State Parks Passport was created, which generated \$1.2 million the first year of implementation.

Ms. Merrill remarked she has enjoyed working for both local and state governments and believes she can be impartial when it comes to listening to appeals and understanding the desires and problems of employees and

the State of Idaho. She stated she is a good listener and she has learned to work with many different personalities in many different venues.

DISCUSSION:

Chairman Patrick mentioned that he was on the Joint Finance-Appropriations Committee (JFAC) when Ms. Merrill had to make budget cuts. He remarked the Passport idea went well.

Senator Burgoyne stated Ms. Merrill has an extensive background and queried how she saw her role on the IPC as opposed to prior jobs. **Ms. Merrill** noted that during her years of work experience, dealing with and making decisions for employees is much different than being the employer. She said she was empathetic, kind, and looked at all issues in making decisions in the best interest of the agency and the person. Appeals are very concerning and emotional to employees. She knows how to alleviate some fear and anger issues that sometimes happen when there is an appeal.

Senator Martin complimented Ms. Merrill and said he appreciated her service, especially with her creative budget cuts. **Ms. Merrill** remarked the budget cuts were staff and employee-driven and a good example of collaboration in order to arrive at a solution.

H 177

Relating to Public Employee Retirement System of Idaho (PERSI) - Re-employment of Certain Public Safety Officers. Representative Julianne Young reported this legislation will allow local school districts to hire retired law enforcement officers to support school security without these individuals having to suspend their PERSI benefits. Should a school district choose to hire these retired individuals, the existing retirement benefit remains locked in at the same rate. The arrangement parallels that currently available to teachers, with the employer still making PERSI contributions, but not the employee.

Representative Young stated the fiscal impact is not known because PERSI actuaries will require five to six years of data to assess the impact.

TESTIMONY:

Don Drum, Executive Director, PERSI, explained that the PERSI plan must comply with Internal Revenue Service (IRS) Code. He stated his role at this hearing was to provide technical support and answer questions on how the proposed legislation impacts the plan.

Mr. Drum remarked that benefit enhancements usually increase plan costs. PERSI's actuaries recently completed an analysis of teachers and administrators who benefited from the Return to Work provision. The study also showed a change in the pattern of retirement for workers who benefited from the provision. The actuaries determined that the current statute that allowed the Return to Work provision was costing PERSI and its members approximately \$28,000 per participant who returned to work. PERSI asked the actuaries to estimate what the cost would be for School Resource Officers. The cost estimate was \$33,386 per Return to Work member. These costs are above and beyond the revenue stream provided in existing code.

Mr. Drum indicated employers would like to explore the option of hiring retired law enforcement officers. **Mr. Drum** pointed out there is data quantifying a cost above and beyond the prescribed revenue source. PERSI has always recommended that benefit enhancements be fully funded by an ongoing revenue stream. The current system in place for teachers and administrators and School Resource Officers (SROs)

returning to work is not fully funded and is subsidized by other members of the plan.

DISCUSSION:

Chairman Patrick and **Mr. Drum** discussed PERSI contribution rates and how data and presumptions are factored in. However, teachers and administrators are retiring two years earlier than planned. PERSI is paying for two more years of benefits other than what was planned. Approximately \$28,000 falls short of covering the total cost per employee.

Senator Lakey remarked the sheriff's department does not think officers will retire early in order to become an SRO, since the job is part-time. **Mr. Drum** remarked PERSI will not know for approximately five to six years if the retirement pattern will change or the impact on the PERSI Fund. In answer to Senator Lakey's question, **Mr. Drum** responded that if the retirement pattern does not change for officers, it would help sustain PERSI within the next five to six years.

Senator Burgoyne inquired if the employer made the PERSI contribution and not the employee. **Mr. Drum** stated that was true, but future proposed legislation will ask the employee to contribute.

A discussion ensued between **Mr. Drum** and **Senator Ward-Engelking** clarifying there is no increase in retirement if a teacher is already drawing from PERSI. They discussed whether or not an employer is hiring retired teachers instead of new teachers. **Mr. Drum** mentioned PERSI projected the employer rate a little low.

Mr. Drum added neither credits nor PERSI benefits change if a teacher or a retired officer goes back to work after drawing PERSI retirement.

Representative Young stated the idea is to help schools employ retired officers as SROs after retirement. This bill should save PERSI money and not change the pattern.

MOTION:

Senator Burgoyne moved to send **H 177** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:00 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Thursday, March 14, 2019

NOTE CHANGE IN MEETING TIME: 1-2 PM

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL VOTE	Committee Vote on the Gubernatorial Reappointment of Rod Higgins, Idaho State Insurance Fund Board (ISIB)	Chairman Patrick
	Committee Vote on the Gubernatorial Appointment of Gregory Donaca, Idaho Health Insurance Exchange Board - Your Health Idaho (YHI)	Chairman Patrick
	Committee Vote on the Gubernatorial Appointment of Nancy Merrill, Idaho Personnel Commission (IPC)	Chairman Patrick
GUBERNATORIAL REAPPOINTMENT HEARING	Committee Consideration of the Gubernatorial Reappointment of Dean Cameron, Director, Idaho Department of Insurance (IDOI)	Dean Cameron, Director, IDOI
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Gubernatorial Appointment of Chris Jensen, Administrator, Idaho Division of Building Safety (IDBS)	Chris Jensen
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Gubernatorial Appointment of Bryan Mooney, Director, Idaho Department of Administration (IDOA)	Bryan Mooney

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 Agenbroad
 Sen Martin
 Sen Lakey
 Sen Guthrie

Sen Thayn
 Sen Souza
 Sen Ward-Engelking
 Sen Burgoyne

COMMITTEE SECRETARY

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

DATE: Thursday, March 14, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:05 p.m.

**GUBERNATORIAL
VOTE:** **Committee Vote on the Gubernatorial Reappointment of Rod Higgins, Idaho State Insurance Fund Board (ISIB).**

MOTION: **Senator Lakey** moved to send the Gubernatorial appointment of Rod Higgins as a member of the ISIB to the floor with the recommendation that he be confirmed by the Senate. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**. Senator Grow will carry the appointment on the floor.

**GUBERNATORIAL
VOTE:** **Committee Vote on the Gubernatorial Appointment of Gregory Donaca, Idaho Health Insurance Exchange Board - Your Health Idaho (YHI).**

MOTION: **Vice Chairman Agenbroad** moved to send the Gubernatorial appointment of Gregory Donaca as member of the YHI 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**. Senator Martin will carry the appointment on the floor.

**GUBERNATORIAL
VOTE:** **Committee Consideration on the Gubernatorial Appointment of Nancy Merrill, Idaho Personnel Commission (IPC).**

MOTION: **Senator Martin** moved to send the Gubernatorial appointment of Nancy Merrill, as member of the IPC Board 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**. Senator Grow will carry the appointment on the floor.

**GUBERNATORIAL
REAPPOINTMENT
HEARING:**

Committee Consideration of the Gubernatorial Reappointment of Dean Cameron, Director, Idaho Department of Insurance (IDOI), of Meridian, Idaho, term commencing January 7, 2019 and serving at the pleasure of the Governor. **Mr. Cameron** gave a brief overview of the history of the IDOI. He talked about the issue of retention within the IDOI. The IDOI has had 53 new hires and 22 promotions. He stated he wanted the IDOI to be a good place to work where employees felt appreciated. Employees needed a place where they had the ability to help work with consumers and to make a difference, and a place where they had the tools and training necessary in order to succeed. He made a better workspace and improved lighting. He has made an effort to speak with employees to find out their likes and dislikes and areas where they feel they need improvement. He holds quarterly staff meetings. **Mr. Cameron** reported the IDOI looked for ways to be more efficient and to feel more comfortable. He has supported an effort to have more outreach and press releases, including a newsletter. He noted the website was updated.

Mr. Cameron explained the development and implementation of the Lost Policy Locator with the National Association of Insurance Commissioners (NAIC), where someone could search if a deceased person purchased a policy and determine whether or not they could collect on the policy.

Mr. Cameron reported he is responsible for budgeting and management. He noted the IDOI is less dependent on contracting with examiners who examine domestic insurance companies or domestic companies, and who were very expensive. Three new examiner positions have been added in the fire marshal's office, which have significantly reduced costs.

Mr. Cameron stated he has worked to appeal statutes and rules that are no longer necessary. The IDOI has worked with legislators and carriers to provide many options to clients, such as hearing aids, treatment for autism, dental contracts, waiving the requirement for Stop-Loss coverage, working on Pharmacy Benefit Manager (PBM) compromises, and oral chemotherapy options. Last year, the IDOI worked hard on trying to develop a notification to a designee to avoid a lapse in policy.

DISCUSSION:

Chairman Patrick remarked he appreciated Mr. Cameron's help in the insurance arena. **Senator Burgoyne** commented the IDOI was not viewed by attorneys in a positive way in the past, but Mr. Cameron has changed the outlook, which the legal community appreciates. He stated Mr. Cameron has made the IDOI responsibility focused with a vision.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Committee Consideration of the Gubernatorial Appointment of Chris Jensen, Administrator, Idaho Division of Building Safety (IDBS), of Blackfoot, Idaho, term commencing January 7, 2019 and serving at the pleasure of the Governor. **Mr. Jensen** provided a brief overview of his background. He outlined the gamut of inspections, citing several statistics. He said these inspections have made schools and buildings safer. He stated the IDBS is fully staffed and currently has enough resources to fulfill the IDBS responsibilities in the construction industry.

DISCUSSION:

Senator Burgoyne and **Mr. Jensen** discussed the use of videoconferencing and traveling outside of Boise for meetings.

Chairman Patrick stated he had spoken with plumbers who voiced their concerns about the rules and laws. **Mr. Jensen** remarked some of the rules and laws passed in 1947 and beyond need to be updated because they are outdated, and some need to be corrected as they are not user-friendly.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Committee Consideration of the Gubernatorial Appointment of Bryan Mooney, Director, Idaho Department of Administration (IDOA), of Boise, Idaho, term commencing January 7, 2019 and serving at the pleasure of the Governor. **Mr. Mooney** provided a brief overview of his background. He mentioned he grew up in Weiser, Idaho and went to college in Wyoming. He worked for Agri Beef Company and managed facilities and purchasing. In addition, he has worked with charities and has been involved in volunteering. He has experience working with customers and promoting independence for individuals and companies. He wants to reduce duplication among agencies.

DISCUSSION:

Senator Burgoyne highlighted some of the items of interest to him. Namely, the Hewlett-Packard (HP) campus, risk management, and purchasing. He stated he did not expect an answer until next year.

Mr. Mooney addressed each of the items brought up by Senator Burgoyne. He remarked that the purchase of the HP campus was a great opportunity to move the campus to the west. He reported there are several training rooms available, which he wants to maintain. **Mr. Mooney** stated he sees opportunities to think about where staff will be housed. He reported he will look for opportunities and collaborate when necessary. Agencies need to be supported and work together to use assets to develop a plan of action.

Mr. Mooney indicated that with risk management everyone has to agree, do the training, provide documentation, and centralize activities.

Mr. Mooney stated there is a job posted for an administrator. He remarked he is looking for a fine leader who is fair and efficient. **Chairman Patrick** remarked he is hoping there are some proven products in Information Technology (IT) that the Idaho Division of Purchasing (IDP) will explore.

Senator Martin stated he liked what Mr. Mooney had to say about purchasing and hoped the State can continue to fully utilize the HP campus.

Mr. Mooney stated that if he does not know something, he will consult with others. He will utilize opinions and get the results the State wants.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 1:48 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

AGENDA
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE
1:00 P.M.
Room WW54
Tuesday, March 19, 2019

NOTE CHANGE IN MEETING TIME: 1-2 P.M.

SUBJECT	DESCRIPTION	PRESENTER
<u>H 248</u>	Relating to Occupational Licensing Reform	Representative Gayann DeMordaunt Senator Todd Lakey
MINUTES	Minutes of March 7, 2019	Senator Guthrie
APPROVAL	Minutes of March 12, 2019	Senator Lakey
GUBERNATORIAL	Committee Vote of the Gubernatorial	Chairman Patrick
VOTE	Reappointment of Dean Cameron, Director, Idaho Department of Insurance (IDOI)	
	Committee Vote of the Gubernatorial	Chairman Patrick
	Appointment of Chris Jensen, Administrator, Idaho Division of Building Safety (IDBS)	Chairman Patrick
	Committee Vote of the Gubernatorial	
	Appointment of Bryan Mooney, Director, Idaho Department of Administration (IDOA)	
GUBERNATORIAL	Committee Consideration of the Gubernatorial	Thomas Kealey
APPOINTMENT	Appointment of Thomas Kealey, Director, Idaho	
HEARING & VOTE	Department of Commerce (IDOC)	
<u>S 1195</u>	Relating to Collection Agencies	Senator Burgoyne Senator Jim Rice
<u>H 149</u>	Relating to Self-Funded Health Care Plans	Representative Rod Furniss
HONORING OF	Alex Knowlton	Chairman Patrick
PAGE		

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 Agenbroad
 Sen Martin
 Sen Lakey
 Sen Guthrie

Sen Thayn
 Sen Souza
 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, March 19, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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 1:03 p.m.

H 248 **Relating to Occupational Licensing Reform.** **Senator Lakey** reported this legislation, relating to occupational licensing reform, will improve access, mobility, and portability to licensed occupations for military families and veterans by recognizing applicable military experience, expediting applications, and endorsement of current licenses held in other states, districts, or territories. This means if the veteran or family member has a license from another state, the bill will establish a procedure to grant a license in Idaho. This is the first step to help veterans and their family members to expedite the process of licensure and remove barriers to entry.

Senator Lakey indicated there is no fiscal impact to the General Fund or local governments because this is already in the purview of each regulatory entity.

TESTIMONY: **Rod Monasterio**, President, Mountain Home Military Affairs, testified in support of this bill. He stated this bill will protect and preserve Mountain Home Air Force Base.

Alain Isaac, President, Mountain Home Chamber of Commerce, testified in support of this bill. She noted Mountain Home Air Force Base has an economic impact of nearly \$1 billion on the community and reciprocal licensing is one of the criteria.

Gary Saylor, Idaho Defense Alliance and retired Major General and previous Adjunct General, testified in support of this bill and advocated for retired military and their spouses. Eliminating or mitigating barriers will improve the quality of life for military families and ease the stress when transition of transferring duty stations with consideration for long-term career implications. Expedited licensure will make a difference for those who elect to leave the service. Choosing where to live is often influenced by many factors such as family, quality of life, education, and job opportunities. He stated this bill provides an opportunity for those who leave the service to stay in Idaho.

Bill Rickey, State of Idaho Military Liaison, Mountain Home Air Force Base, testified in support of this bill.

MOTION: **Senator Thayne** moved to send **H 248** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of March 7, 2019. **Senator Burgoyne** pointed out a correction at the bottom of page 1 and stated he thought the 39(H) disclosure should be reworded as "appropriate under the rule" according to Senate rules. **Senator Guthrie** restated his motion to include the correction. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Lakey moved to approve the Minutes of March 12, 2019. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL VOTE: **Committee Vote of the Gubernatorial Reappointment of Dean Cameron, Director, Idaho Department of Insurance (IDOI).**

MOTION: **Senator Martin** moved to send the Gubernatorial reappointment of Dean Cameron as the Director of the IDOI to the floor with the recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**. Senator Winder will carry the appointment on the floor.

GUBERNATORIAL VOTE: **Committee Vote of the Gubernatorial Appointment of Chris Jensen, Administrator, Idaho Division of Building Safety (IDBS).**

MOTION: **Senator Thayne** moved to send the Gubernatorial appointment of Chris Jensen as the Administrator of the IDBS 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**. Senator Bair will carry the appointment on the floor.

GUBERNATORIAL VOTE: **Committee Vote of the Gubernatorial Appointment of Bryan Mooney, Director, Idaho Department of Administration (IDOA).**

MOTION: **Senator Martin** moved to send the Gubernatorial appointment of Bryan Mooney as the Director of the IDOA to the floor with the recommendation that he be confirmed by the Senate. **Vice Chairman Agenbroad** seconded the motion. **Senator Martin** complimented Mr. Mooney for the positive movement in the Idaho Purchasing Department and the work on the Chinden Complex. The motion carried by **voice vote**. Senator Ward-Engelking will carry the appointment on the floor.

GUBERNATORIAL APPOINTMENT HEARING & VOTE: **Committee Consideration of the Gubernatorial appointment of Thomas Kealey, Director, Idaho Department of Commerce (IDOC),** term commencing January 7, 2019 and serving at the pleasure of the Governor. **Mr. Kealey** provided a brief overview of his background. He reported he has traveled to different parts of Idaho for his initial outreach visit which have been informative and rewarding. He has collaborated with different groups, promoted jobs, and encouraged tourism. **Mr. Kealey** remarked Idaho has so much potential. He noted with the rebirth of the nuclear industry in the near term installation and operation of small modular reactors in Idaho, thousands of new jobs and billions of dollars of investment will have a tremendous impact for many years to come. The IDOC will be a good partner and assist communities with this projected growth.

DISCUSSION: **Senator Souza** queried if there was any part of Mr. Kealey's experience in the past that has prepared him for this job. **Mr. Kealey** responded that his consulting background has helped him with listening and learning.

Senator Burgoyne inquired what the challenges have been for the Idaho economy and what role the IDOC play, to meet those challenges. **Mr. Kealey** stated there is a tight labor and housing market. On the horizon, the IDOC is looking at high-speed internet, which is a challenge with positive results. The other challenge for the IDOC is helping local business people expand.

Senator Burgoyne inquired about access to capital. **Mr. Kealey** reported there is a tremendous amount of capital coming into the state, especially with the food processing industry. He noted communities are looking for data centers and that capital formation is important.

Senator Burgoyne queried how Mr. Kealey saw the role of the IDOC and the State of Idaho with regards to a central internet service. **Mr. Kealey** responded by saying he is having another meeting with the Governor's office to examine some of the different options and scenarios to resolve the issues of how to increase speeds, lower costs, and broaden the reach.

Senator Martin remarked he has always been curious about advertising for travel to Idaho and tourism dollars. He queried if it was appropriate to entice Idahoans to stay in Idaho to vacation. **Mr. Kealey** noted most of the IDOC money is spent on external advertising to attract people to come visit or to spend money in Idaho. **Senator Souza** commented that internal tourism is great.

MOTION: **Senator Souza** moved to send the Gubernatorial appointment of Thomas Kealey as the Director of the IDOC to the floor with the recommendation that he be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Ward-Engelking will carry the appointment on the floor.

DISCUSSION: **Senator Souza** commented she had met with Mr. Kealey when exploring the concept of a V-Tech high school with her constituents and he was most helpful. She was impressed by his ability to listen, absorb what was being said, and share his background that was appropriate to the occasion.

VOICE VOTE: The motion carried by **voice vote**. Senator Ward-Engelking will carry the appointment on the floor.

S 1195 **Relating to Collection Agencies.** **Senator Burgoyne** reported this legislation will amend and clarify Idaho Code § 26-2229A to limit attorney fee and litigation cost recoveries from a debtor by a collection agency to those which are in the case of attorney fees reasonable, and in the case of litigation costs, prescribed by court rule. He noted this legislation will not increase existing or future appropriations or decrease revenues by the State or units of local government because it only limits attorney fee and litigation cost recoveries by collection agencies.

MOTION: **Senator Ward-Engelking** moved to send **S 1195** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 149

Relating to Self-Funded Health Care Plans. Representative Furniss reported Idaho Code § 41-4003 requiring all government self-funded plans to register with the Director of the Idaho Department of Insurance (IDOI), will be amended to exempt the State. This allows the State to enter into a self-funding contract without an additional initial up-front surplus. All other government agencies must register within a five-year period except for counties and other federal agencies. Idaho Code § 41-4010 Reserves and Surplus (c) provides alternatives to limit the maximum liability in a registered self-funded plan using proper funding and insurance products. A waiver is given to the Director of the IDOI for plans that are properly funded without insurance. A technical correction was also made. The proposed alternative will not require a reserve for schools and cities.

Representative Furniss stated there is no fiscal impact to the General Fund since it enables, rather than obligates self-funding plans.

Representative Furniss asked that the bill be sent to the amending order.

DISCUSSION:

Senator Thayne reported this bill will fit into reducing medical costs because costs are driven by lifestyle choices. He commented if those inside a plan do make some lifestyle changes or are encouraged to make better lifestyle choices, then that plan benefits from those savings. In a larger plan, the organization may have some very healthy people, but if lifestyle changes are not made or encouraged, those savings are not captured by the organization. This bill is a good opportunity and the direction in which the State ought to go.

MOTION:

Senator Thayne moved to send **H 149** to the 14th Order of Business for possible amendment. **Senator Burgoyne** seconded the motion.

DISCUSSION:

Senator Lakey remarked he was in support of the bill. His main concern was with the requirements for counties. Chapter 40 needs a lot of work. This bill does not require the State to be self-funded.

TESTIMONY:

Seth Grigg, Idaho Association of Counties, testified in support of the bill with the proposed amendments.

VOICE VOTE ON MOTION:

The motion to send **H 149** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

HONORING OF PAGE:

Chairman Patrick honored Page Alex Knowlton. **Mr. Knowlton** shared what he learned while being a Senate Page. He stated he learned to prioritize his time, be more organized, and to do a resume. He also learned how to label envelopes for the end of session letters. He noted the Senators do care. He said this was a great experience and thanked Vice Chairman Agenbroad for talking to him about the Page program.

DISCUSSION:

Senator Burgoyne commented on the good presentation and he appreciated Mr. Knowlton's story about letters and other items. He stated no higher compliment could be given when referring to the Senators as normal people. He was not sure he had received such a wonderful compliment.

Senator Guthrie noted Mr. Knowlton validated Senator Burgoyne's comments. He inquired about Mr. Knowlton's future plans. **Mr. Knowlton** reported he planned on attending Boise State University upon graduation in December.

Vice Chairman Agenbroad thanked Mr. Knowlton for trusting in him and he is proud to have seen him grow as a person.

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
1:00 P.M.
Room WW54
Tuesday, March 26, 2019

NOTE CHANGE IN TIME

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Minutes of March 19, 2019	Senator Thayn
<u>H 275</u>	Relating to Short-Term Health Insurance Plans	Representative Sage G. Dixon Dean Cameron, Director, Idaho 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 Thayn
Vice Chairman Agenbroad	Sen Souza
Sen Martin	Sen Ward-Engelking
Sen Lakey	Sen Burgoyne
Sen Guthrie	

COMMITTEE SECRETARY

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

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 26, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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 March 19, 2019. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

H 275 **Relating to Insurance. Dean Cameron**, Director, Idaho Department of Insurance (IDOI), reported this bill amends Idaho Code §§ 41-5203 and 41-5207 and adds a new section of Idaho Code to define and provide for the purchase of enhanced short-term health insurance plans. **Mr. Cameron** reported that on August 3, 2018, the U.S. Departments of the Treasury, Labor, Health and Human Services issued new rules to amend the definition of short-term, limited-duration insurance to lengthen the maximum duration of short-term health insurance. This bill defines enhanced short-term health insurance and brings Idaho in compliance with new federal rules that went into effect on October 2, 2018.

Mr. Cameron noted federal law permits enhanced short-term plans for up to 12 months and allows an individual to renew the policy for up to the number of months established by the IDOI. Thirty-six months is the proposed total amount of months. This bill will not eliminate traditional short-term plans that are intended to help those in between jobs. In addition, this bill establishes a new section of code to allow the Director of the IDOI to adopt rules and standards for enhanced short-term health insurance plans.

Mr. Cameron affirmed this legislation will have no impact on the General Fund, the IDOI, or any other state funds because it authorizes rulemaking by the IDOI in order to conform to recent revisions to federal rules. This legislation could lower health insurance costs for Idahoans.

Mr. Cameron stated a short-term plan is a limited plan that is non-renewable and does not exceed 12 months and explained this insurance is what is available in today's marketplace. He acknowledged there are other options, such as not having any coverage and the faith-based programs. This proposed bill will fill the gap for those who have been priced out of the market by the Affordable Care Act (ACA) and will provide the opportunity to obtain good coverage for their families at an affordable price. Idaho Code § 54-14 is not currently in code, but this bill becomes code. This short-term insurance can be sold year round.

Mr. Cameron explained there are several questions he has been asked

concerning the new section of the proposed bill (Attachment 1), which is on page 5.

DISCUSSION:

Chairman Patrick inquired about the cost of the new short-term plan. **Mr. Cameron** remarked there is not a firm number yet until the components of the plan are developed and the carriers are able to submit plans for approval. He stated the goal is to have a potential cost of 50 percent less than the cost of currently available ACA plans.

Senator Lakey questioned if the new section allowing for an ongoing renewal would be consistent with the federal rule. **Mr. Cameron** indicated there could be changes, depending upon a presidential election or court ruling on the constitutionality of the ACA. **Senator Lakey** remarked it appeared rulemaking and providers can decide whether to offer this type of plan or not. He inquired about the restrictions on premium rate increases and if the carrier was required to renew a policy. **Mr. Cameron** stated Chapter 52 contains that information and stated at rates can be adjusted at renewal time. A carrier is required to file an index rate with the IDOI and that index rate has to be justified based on the product design and the case characteristics of that product. IDOI employees review those products to the actuarial standard, which allows some adjustment. Renewal time and rates can be adjusted up to 15 percent of its total number of individual and dependents and in all lines of business. He noted because these plans would be available year round, he could see two carriers ready to start immediately and another two could sit back and observe.

Senator Souza and **Mr. Cameron** discussed the loss of insureds since 2015 and that some individuals who were previously insured have chosen not to purchase insurance for various reasons. **Mr. Cameron** explained the short-term insurance numbers have not shown a dramatic increase but could change based on federal rule. They discussed whether the state-sponsored comprehensive state-based program met the ACA requirements. **Mr. Cameron** mentioned the IDOI has tried to negotiate with the federal government, but has not come to an agreement on how much of a discount a carrier can provide.

Senator Thayn referred to Idaho Code § 41-5207, and asked Mr. Cameron to explain the background on the new language in the bill. **Mr. Cameron** reported that the current language on page 4 speaks to renewability of plans, which are not limited to 36 months. He pointed out on the bottom of page 5, which is the new section, there is a description of what the plans will look like, which is not extremely specific. He stated he wanted to meet with carriers and promulgate the rules. The bill contains an emergency clause as soon as it is signed by the Governor. **Senator Thayn** and **Mr. Cameron** discussed the cost of the plan and that a variety of strategies could be used, for example, to entice members to join a gym, quit smoking, or manage their diabetes. He reported all carriers are trying to balance the market and insureds to spread and share the risk in order to attract healthy members back into the pool. **Mr. Cameron** stated there could be some differences in how the out-of-pocket maximum or a rate slope would be handled.

Vice Chairman Agenbroad inquired if the policies would be available on the Your Health Idaho (YHI) Exchange. **Mr. Cameron** reported the policies would be available on the YHI Exchange because they fall under Idaho Code, Chapter 52 and under the definition of health benefits which is an option based on the wording of the YHI Exchange documents. **Mr. Cameron** noted it largely depends on what the plans look like. Currently, short-term plans are not offered on the YHI Exchange. In order to be compliant, carriers also have to offer an ACA plan, which has to be convertible.

Vice Chairman Agenbroad remarked there is a lack of understanding by the consumer of what is and what is not covered. **Mr. Cameron** explained there are certain federal requirements. He noted that in Idaho Code, Chapter 52, there are specific plans for adequate disclosure which is a requirement of the IDOI.

Senator Guthrie voiced a concern about driving prices up with renewals and pre-existing conditions. **Mr. Cameron** remarked as part of Chapter 52, there is a requirement to offer an ACA plan which provides protection and will improve the overall pool. The IDOI does not allow market segregation. Idaho law has allowed a 12-month plan, but the ACA does not allow buying a plan until open enrollment. The proposed bill has similar ACA approaches, but is not going to require full-fledged pre-existing clauses. The current statute allows for pre-existing condition clauses at the front end of an individual product. Idaho law has allowed for a 12-month clause on a condition that has been diagnosed previously within the previous six months.

MOTION: **Vice Chairman Agenbroad** moved to send **H 275** to the floor 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 2:14 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary

Frequently Asked Questions on *Enhanced* Short-term plans;

1) Are these skinny plans?

- a) No.
 - i) Current *traditional* short-term plans allow for skinny plans, with pre-existing condition clauses. They are not subject to chapter 52 and are not renewable. The traditional short-term plans can be purchased for up to 12 months.
 - ii) The proposed *enhanced* short-term plans would be more comprehensive coverage and applicable to chapter 52 but would be renewable.

2) Will these plans have all of the essential health benefits?

- a) Although discussions, meetings or hearing have not been held so no determination has been made. I would suspect they would have all of the essential health benefits. Perhaps excluding pediatric dental and vision.

3) Can Enhanced short-term plans have a pre-existing condition clause?

- a) Possibly but probably similar to the ACA plans. Again no determination has been made.
 - i) Current traditional short-term plans allow for pre-existing clauses, Idaho law is vacant on the issue.
 - ii) Chapter 52 allows for a pre-existing clause if there is a break in coverage longer than 63 days.
 - iii) Current ACA plans cause a person to wait until the first of the year after the next open enrollment period. This is commonly referred to as a waiting period.
 - iv) I would guess we would likely recommend a rule with a combination of ii) and iii). Leaning more to iii).

4) Why would someone want a short-term plan that renews?

- a) Two reasons,
 - i) Typically people buy short-term coverage in-between jobs or in-between benefits (benefits don't kick in for a period of time). Sometimes those circumstances change. Maybe the job start date changes or the person decides to change jobs again. Sometimes the health of the insured changes as they are between jobs.
 - (1) Under traditional short-term plans they would be forced to hop to a new carrier, starting all over with a new pre-existing condition.
 - (2) Under the enhanced plans they would just renew for a period of time.
 - ii) Affordability, people who are forced out of traditional coverage.

5) If a plan is renewed do they start all over with a new pre-existing condition clause?

- a) No.
 - i) Current *traditional* short-term plans are not allowed to be renewable by state law therefore it forces a consumer to hop from one plan to another. Starting a new pre-existing condition clause again.
 - ii) The proposed *enhanced* short-term plans, under chapter 52, would not allow a new pre-existing clause, assuming one was even allowed to begin with.

6) If a person purchases an *Enhanced* short-term plan can they convert it to a traditional ACA plan?

- a) Yes, the provisions of H275 and chapter 52 would require the ability to convert to an ACA plan.

7) Will the issuance of enhanced short-term plans hurt, diminish or detract from the ACA plans?

- a) No, you must offer ACA plans to offer enhanced short-term plans. They will be tied together from a rating perspective and will be part of the same risk pool as per chapter 52.

8) Can the *enhanced* short-term plans be sold on the exchange?

- a) Probably. Once the makeup of the plans is complete and rules are promulgated we believe it is possible to market them on the exchange and off the exchange.

9) Can subsidy or premium tax credit (APTC) be applied to the enhanced short-term plans?

- a) We believe not.

10) How are the *enhanced* short-term plans more affordable?

- a) There are a couple of ways these plans could be more affordable.
 - i) The most likely is the ability to reduce rates or provide savings to those who are healthy, which would attract the health back into the pool.

11) What are the consumer protections in Chapter 52?

- a) 5203 –Dependents defined to age 25, index rate defined.
- b) 5206 Rate restrictions, rates would be no less than 50% off of the index rate, rate adjustments no more than 15% plus trend, case characteristics of gender, age and smoking status
- c) 5207 Renewability, including carrier withdrawal,
- d) 5208 Portability of coverage, Pre-existing conditions 12 months, 6 months look back, lapse of coverage greater than 63 days.
- e) 5212 Standards assuring fair marketing