

Subcommittee on Peace Officer and Detention Officer Temporary Disability Fund

April 6, 2026

2:00 p.m.

Members: Mike Miraglia (ID FOP), Alan Pace Jr., Rachel Misnick, Patti Vaughn, George Gutierrez, Kamerron Slay, Commissioner Aaron White, Chair Claire Sharp, Chris Wagener (Chair), Jamie Arnold, Becky Coble, Kelly Paananen (Ada County), Bryan Lovell (ID FOP), Dave Anderson, Steve Thompson (City of Boise), Mark Peterson, and Angie Howe

Mr. Wagener opened the meeting and had participants introduce themselves.

1. Agency's Budget Line Item on Peace Officer and Detention Officer Temporary Disability Fund Update.

Ms. Misnick happily reported that the agency's enhancement bill was signed on March 26. The total amount available for distribution on July 1st for the Peace Officer and Detention Officer Temporary Disability Fund (PODO) has been increased to \$225,000 per year. She mentioned that this year's allocation has already been spent, and that they still have applications awaiting the start of the new fiscal year for reimbursement. Currently, \$100,000 in approved reimbursements must wait until the start of FY27 to be paid.

2. PERSI Analysis on Proposed Language.

Chair Sharp shared that after the last meeting, she sent the draft subsection 3 language to PERSI for feedback. PERSI responded that subpart (3) would not have a negative impact and, from their perspective, this proposed legislation would help employers report the correct salary amount. Chair Sharp noted this provided some assurance that they are heading in the right direction.

3. Next Steps.

Mr. Wagener noted that since PERSI benefits continue to be distributed, were there any modifications to the draft language that the subcommittee would like to discuss?

(2) During the period for which the salary for temporary incapacity shall be paid by the employer, any worker's compensation received or collected by the employee shall be remitted to the state or to the respective city or county, as applicable, and paid into the treasury thereof. In addition, the employer shall be reimbursed for any remaining amount of salary not covered by such worker's compensation by application to the peace officer and detention officer temporary disability fund, as established in section 72-1105, Idaho Code, pursuant to rules adopted by the industrial commission; provided however, that any such reimbursement from the fund shall continue only during such period as the employee qualifies for worker's compensation wage loss benefits under title 72, Idaho Code.

(2) (3) Notwithstanding the foregoing, if the employer pays the employee's full rate of base salary as contemplated by subsection (1), it may notify the carrier and request ongoing wage loss benefits be paid directly to the employer. The carrier, upon notice from the employer and submission of notice under 72-806, shall submit to the employer any wage loss benefits owed, and by doing so satisfies its obligations for the payment of wage loss. This section does not relieve employees from remitting payment to the employer under subsection (2) if applicable.

Mr. Wagener noted that, under subsection (2), language could be included to allow alternative methods of recouping funds, rather than requiring the employee to write a check to the county, essentially. Mr. Wagener expressed concern about how to phrase this to make such options feasible.

Chair Sharp acknowledged that this is an important consideration, noting the absence of an offset for workers' compensation benefits that may be owed. Chair Sharp further suggested that, before incorporating language regarding offsets, it would be beneficial to obtain feedback from an employer with experience in these matters to ensure the approach is practical and supportive of employee needs.

Ms. Paananen explained that, as a self-insured employer, all claims are managed through their self-insured account and administered by Intermountain Claims. Intermountain Claims would therefore handle any recoupment related to overpayments, since they process the original disbursement. Mr. Pace noted that this reflects the typical procedure in self-insurance frameworks. Mr. Pace indicated that the question becomes: what happens when you have everybody else who's handled through SIF, and now you have money issued by SIF that's being paid back to the municipality, but it's SIF money, and suggested trying to figure out a mechanism there.

Mr. Peterson indicated that SIF currently processes PODO claims in the same way as regular workers' compensation cases, issuing payments directly to the employee. He noted that addressing this situation might create complications, such as uncertainty over whether the employer's cessation of involvement affects SIF's obligations and confusion regarding who benefits should be paid to.

Mr. Wagener highlighted that benefits are available at any time provided the injury satisfies the requirements outlined in subsection (1), and, in such cases, wages must be maintained accordingly. This raises the question of how to handle overpayments and payment of retirement wages. Chair Sharp suggested that including an offset provision might be beneficial.

Mr. Peterson also highlighted another issue that carriers may be deemed to have been wrongly delayed or denied benefits due to statutory delays by either the employer or the carrier. Miscommunications can occur, such as employers stating they are paying the full rate of pay but aren't, and they have concerns about the sureties' liability. Ms. Vaughn acknowledged Mr. Peterson's perspective, noting that the notice of change of status under I.C. 72-806 could help address his concerns. Mr. Peterson then questioned whether it was necessary to acknowledge that

a check had already been paid at the full rate of benefits, suggesting this could be reflected in the notice.

Mr. Wagener commented that under the PODO Act, individuals who qualified throughout their time off should be fully covered. Mr. Lovell asked for clarification on situations in which an officer is injured but remains employed: if they later become unemployed or retire during recovery, do workers' compensation benefits continue, and what causes those benefits to end? Mr. Wagener further explained that if someone is no longer a Peace Officer, the municipality would typically stop paying their salary and transition them to TTD (Temporary Total Disability) benefits, as they were outside the scope of the PODO Act. Mr. Peterson agreed that, according to statute, terminated employees during recovery are still entitled to receive their full base wage, regardless of employment status.

Ms. Misnick stated that during the recovery period, individuals would still receive their full base wage, whether or not they are currently employed. Ms. Misnick indicated that generally, from a procedural standpoint, if the statute requires the employer to pay the full rate of pay, then that's what happens. Ms. Misnick indicated that once someone is no longer employed there, it makes sense that the PODO Act no longer covers them. Still, Fiscal has never had a request for reimbursement covering a period during which the individual was no longer employed.

Mr. Peterson explained that the statute uses the term "employee" throughout. However, regardless of whether someone was a non-employee at the time of the accident, they are still considered an injured worker or claimant. Commissioner White agreed with Mr. Peterson's perspective. Mr. Peterson further clarified that the statute is interpreted to mean that, regardless of current employment status, the rate of pay matters, and the employer would continue making payments.

Ms. Misnick indicated that the main issue with transferring checks could be resolved under subsection (2), which requires them to turn the checks over. Ms. Misnick pointed out that unintended consequences might still occur.

Mr. Peterson questioned whether the employer continues to pay benefits, such as PERSI or healthcare, after an employee leaves, even if income tax withholding no longer applies. However, the former employer may still be withholding income tax because the base pay is being paid in full, though it's unclear whether taxes are being deducted. Mr. Peterson noted that several attorneys he has communicated with during the negotiation process have indicated that the full base wage must be paid, regardless of whether the individual remains employed.

Mr. Lovell raised a scenario that if injured on the job and receiving workers' compensation benefits (not under PODO), recovery continues as long as one remains employed. Mr. Lovell asked if workers' comp benefits could continue during recovery if the person leaves their job for another position or could no longer work the job because of the injury. Mr. Wagener clarified that, if requirements under I.C. 72-1104(1) are not met, TTD benefits apply until the injured worker is released to full duty, assigned light duty, or declared medically stable. Mr. Wagener indicated that, as Commissioner White noted, if the injury falls under the PODO act, the intent is to maintain salary during recovery.

Mr. Lovell added that continuing salary payments make sense regardless of eligibility for the act, especially if someone leaves work for recovery and then chooses a different job; switching to TTD should occur only in appropriate situations to avoid incentivizing resignation rather than returning to work. He cited rare scenarios, such as being injured shortly after submitting a two-week notice, to illustrate that such nuances make the process complex.

Mr. Wagener emphasized caution against creating policies for one-off cases that lead to narrow rules. Generally, employees off work continue to receive wages from their employer or another source, or refuse to return to work, and this approach applies universally in workers' compensation, ensuring coverage persists. Mr. Wagener explained that when seeking reimbursement, detailed information must be provided for accurate processing, and payments stop once the doctor confirms maximum medical stability, resolving any time-loss concerns.

Mr. Lovell pointed out that an injury lasting three years didn't seem temporary. He questioned whether it would be logical to apply the same guidelines to cases that are not short-term and suggested moving such cases out of the temporary disability fund, since it's meant for temporary issues. He also expressed concern that the fund would be depleted. If someone is still receiving temporary disability for three years, there may not be enough money left, and once the fund runs out, payments will stop. Mr. Wagener explained that when the fund exhausts its annual budget, as has happened this year, it holds reimbursements until the start of the next fiscal year. Nearly half of the available funds for FY27 are already earmarked for payments. Although the fund has reserves, frequent use is wearing it down. Mr. Lovell asked at what point long-term temporary disability should be considered permanent. Mr. Wagener responded that "temporary" status lasts until the individual is medically stable, which could take anywhere from months to decades, especially with extensive treatment, rehabilitation, or new conditions like PTSI that prolong recovery.

Ms. Misnick added that, based on historical data for FY24 and FY25, fines collected totaled \$210,000 and \$222,000, respectively, nearly matching the new appropriation amount. She also mentioned that the PODO fund currently has about \$2 million in savings, so it will be some time before all available cash is spent. Director Gutierrez remarked that he does not believe the Legislature will allow the agency to operate at a deficit without demanding explanations, particularly regarding why certain parts are draining resources from others. Director Gutierrez indicated the goal is to avoid solving one problem only to create another. Mr. Wagener noted that although funding is approved, changes can be made at any time, so it's important to ensure all expenses are covered.

Mr. Peterson raised questions about removing taxes and whether language should allow wage payments with continued PERSI and health insurance benefits for injured workers who are no longer employed by their time-of-injury employer, without creating incentives. He thinks the current wording means full base salary is paid, but there would be no PERSI or other benefits. The issue of whether taxes are withheld from salary was discussed. Commissioner White clarified that such payments could potentially count as income. Currently, TTD checks keep individuals on salary, so they still earn PERSI and health insurance. If separation occurs, their base salary would go to the TPA. Mr. Wagener explained how benefit repayments work, noting that combining credits

won't affect PERSI since salary continues when TTD is paid, and that, under the PODO Act, the statute allows adjusting base salary with TTDs to prevent overpayments. This serves as Mr. Wagener's solution, especially for adjudicated cases.

Mr. Wagener suggested drafting new language to integrate these provisions. Commissioner White recommended using language from the *Watkins* case. Chair Sharp indicated the draft language should examine the offset provisions and related language in subsections (2) to ensure they correctly apply to subsections (3) and (4) and to verify that subsection (3) is consistent with Title 72. Mr. Wagener inquired about who would be responsible for preparing the revisions for the upcoming meeting. The Industrial Commission agreed to undertake this task, with assistance from Mike Miragulai (FOP), and Mr. Arnold agreed to review the final draft. The sub-subcommittee will prepare recommendations for further review, and Ms. Slay will coordinate a Zoom meeting to facilitate drafting. After the language is prepared, it will be distributed to the other subcommittee members.

Mr. Arnold mentioned that he will be unavailable for the subcommittee meeting on court transcripts scheduled for Thursday. The Commission agreed to postpone the meeting until after the Advisory Committee's May meeting.

Adjournment:

The meeting adjourned at 2:46 PM.