

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

- DATE:** Wednesday, February 06, 2013
- TIME:** 8:00 A.M.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk
- ABSENT/ EXCUSED:**
- 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 McKenzie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m. with a quorum present.
- MOTION:** **Senator Hill** moved to accept the minutes of January 23, 2013. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.
- RS 21840** **Chairman McKenzie** welcomed **Senator Patrick** who presented **RS 21840** – Relating to the Sale of Keg Beer.  
**Senator Patrick** explained that this simple piece of legislation will allow microbreweries which produce beer in five gallon containers, to sell their product in a five gallon container instead of meeting the current requirement of selling a size no less than seven and three quarter gallons.
- MOTION:** **Senator Werk** made a motion to send **RS 21840** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.
- GUBERNATORIAL APPOINTMENT:** The reappointment of Melville W. Fisher for a third term with the Idaho Lottery Commission (Commission). **Chairman McKenzie** introduced Mr. Fisher and asked him to talk about the work of the commission since his last appointment and his role for the future.
- Mr. Fisher** stated he had been on the Commission for ten years and each year they have seen increased revenues. The Commission is an oversight committee that monitors machines and looks for varied kinds of games for gaming opportunities. They also monitor the security system and can now hear cases for suspension of gaming licenses; this is new.
- Senator Siddoway** said that as he observes people buying lottery tickets that may not have the discretionary income to be spending on those tickets, he is concerned about the social impact of these games. Are there any funds available to convey a responsibility about playing to people? **Mr. Fisher** stated that they are always concerned about problem gaming. They send out a clear message to play responsibly. They have a hot line for gambling problems, there is a contact number for Gamblers Anonymous, they make sure games are secure and publicity is limited. Packets explaining all of these programs are available.
- Senator Siddoway** asked if the costs for the programs were paid for out of the proceeds of the lottery or are they shifted to other institutions? **Mr. Fisher** wasn't exactly aware of how Gamblers Anonymous works, they only have a contact number. The other programs would be referrals to state agencies or self help programs.

**Senator Lodge** noted that Mr. Fisher has an AV rating with Martindale-Hubbell. What does that mean? **Mr. Fisher** explained that Martindale-Hubbell is a nationwide rating system for attorneys. An "A" is a top rating received among your peers; a "V" rating is the ethics rating. An "AV" is the top rating a lawyer can achieve.

**Senator Winder** disclosed for the record that he intends to vote, but Mr. Fisher has provided him and his family services over the years.

**GUBERNATORIAL APPOINTMENT:**

**Chairman McKenzie** welcomed Mark William Lliteras, the Gubernatorial Appointment to the Idaho Energy Resources Authority (ERA). **Chairman McKenzie** noted that the ERA has had members with backgrounds in energy, public service and banking. Describe how your background will fit into your role on the ERA.

**Mr. Lliteras** stated that this is his first appearance before the Committee. Over the last 40 years, he has been employed in the banking field specializing in commercial banking. He has been involved with businesses of all sizes as well as utilities. He has not attended any meetings since none have been held since his appointment.

**Senator Davis** said that it is his responsibility to disclose his connection with Mr. Lliteras in the commercial banking area and that their family business has a line of credit at Wells Fargo Bank.

**Senator Werk** noted that Mr. Lliteras is a registered lobbyist for Wells Fargo. **Mr. Lliteras** confirmed that statement. **Senator Werk** asked if Mr. Lliteras could foresee potential conflicts of interest. **Mr. Lliteras** explained that his registration as a lobbyist arose because part of his practice in commercial banking is through services with municipal authorities such as the State of Idaho. He does not actively lobby for or against bills in front of the legislature. There wouldn't be a conflict of interest from the lobbying side but from the commercial banking side there is the potential for a conflict of interest if Wells Fargo were to be involved with some of the financing or the sale of bonds. **Senator Werk** asked, if there was a conflict, how would you respond? Mr. Lliteras said that there would first be a disclosure to the ERA. In most cases, he would recuse himself.

**GUBERNATORIAL APPOINTMENT:**

**Chairman McKenzie** announced the reappointment of Gavin Gee to the Idaho Endowment Fund Investment Board (EFIB).

**Mr. Gee** stated that he is seeking confirmation from the Committee for his reappointment to the EFIB. He has served on the EFIB for 18 years. He has served as Vice Chairman of the board and was present during the transition from fixed income investments to the mixed equities and fixed income assets they have today.

The EFIB invests the assets of the state on behalf of nine beneficiaries. Not only do they have the responsibility to oversee the endowment fund assets but also the Idaho State Insurance Funds, Idaho Judges Retirement Fund and Idaho Parks and Recreation endowments. The EFIB's performance has been outstanding in recent years.

**Senator Hill** asked, as Director, what is the interplay between the Department of Finance and the EFIB. Is there interaction? Does the experience with one help with the responsibilities of the other? Will holding both positions cause any conflicts of interest?

**Mr. Gee** answered that before endowment reform, he was a statutory member of the EFIB. Since that reform, his position as Director of the Department of Finance (Department) is no longer a statutory position on the EFIB. One of the primary responsibilities of the Department is to regulate the securities industry that is licensed in Idaho. There are over 91,000 stockbrokers licensed to do business in Idaho with 95 percent coming from outside Idaho. They also regulate investment advisors that are state authorized under federal law; they do not directly regulate the large investment advisors that do business with the EFIB because they are regulated under federal law by the Securities and Exchange Commission (SEC). They do have antifraud jurisdiction over the large investment managers. Over his career, he has not seen any conflict of interest in his role as a regulator of the security industry. Hopefully, it has been helpful to the EFIB when there are regulatory issues, to share that knowledge when necessary.

**Senator Davis** asked if Mr. Gee would address the disclosure letter regarding his wife's employment at the accounting firm of Eide Bailly and Company. **Mr. Gee** explained that his wife is a salaried Certified Public Accountant with Eide Bailly LLP, which is currently EFIB's auditor. She has been with the firm nearly 20 years. She is not on the audit side of the business; she does primarily tax work. Now she only works during the tax season. She is not a partner, an equity partner or owner of the firm. **Mr. Gee** did raise the question with the Attorney General's Office and was advised that it did not appear to them to be a conflict of interest but they did advise disclosure and Mr. Gee has done that each year.

**Senator Davis** asked who makes the decision to employ this firm. **Mr. Gee** said that the EFIB employs the firm on a contract basis. When those discussions come up before the EFIB, he recuses himself.

**Senator Winder** disclosed that, as a member of the EFIB, he works with Mr. Gee on a regular basis.

**GUBERNATORIAL APPOINTMENT:** **Chairman McKenzie** introduced the appointment of Senator James C. Hammond to the Idaho State Racing Commission (Racing Commission).

**Senator Hammond** said he never expected to appear before the Committee in the capacity of the Racing Commission but it is his understanding that the Racing Commission has had some challenges and it was time to calm the waters and focus on the process of problem solving. He admitted to not knowing a lot about horse racing.

**Senator Stennett** asked if there was something that you believe you could lend to the position. **Senator Hammond** responded that he talked with the Chairman of the Racing Commission who had a lot of knowledge about horse racing, but not a lot about running a commission. **Senator Hammond** said that he could be of help. He has, and continues to, serve on many state boards and commissions. His expertise can be to advise the Racing Commission about moving forward in a positive manner, working together as a commission to increase revenues and abiding by the regulatory requirements.

**Senator Hill** asked what the rationale is for the differing years of service for board members, i.e. three years, four years, five years, and yours, for six years. **Senator Hammond** guessed that the reason would be to provide stability. Horse racing, as an industry, has been challenged to be profitable. Long-term planning will provide a regulatory environment that ensures the safety of the jockeys and the horses, but also to ensure that the industry will be viable and profitable.

**Senator Lodge** commented that the horse industry in Idaho is huge. There are one- horse owners to those with many horses or very expensive horses. It extends into the building industry and equipment. It is not just what happens at Les Bois Park; it is a big economic component in the state of Idaho. **Senator Lodge** is glad that someone with Senator Hammond's experience is taking on this challenge. **Senator Hammond** responded that being involved is a way to give back to the community.

**Senator Davis** asked about the type of consulting work that Senator Hammond does, and if it touches on or impacts racing. Focus on the potential for, or the absence of, conflict of interest. **Senator Hammond** stated that his company has no connection with racing, it is a company that works with employers on restructuring health care benefits.

**Senator Siddoway** asked what is the role of simulcasting. **Senator Hammond** said that he has only a surface level of knowledge in this area. Simulcasting is helpful to the horsemen; some of the profits of that function goes to horsemen to sustain their industry. Local horse racing probably would not be viable if simulcasting was not available.

**Senator Winder** explained that racing circles are discussing racing that would use historical races randomly selected and allow simulcasting of those races. What are your thoughts? **Senator Hammond** said he has some slight knowledge of that issue but not enough to comment. **Senator Winder** asked for information as it comes forward. **Senator Hammond** agreed.

**Chairman McKenzie** thanked Senator Hammond for his appearance.

**S 1025**

**Chairman McKenzie** opened discussion on **S 1025** relating to wine container size which was held over from last meeting by unanimous consent. Roger Batt, on behalf of the Idaho Grape Growers and Wind Producers, will continue the discussion.

**Mr. Batt** stated that colleagues within the industry have completed a lot of research through phone calls or e-mails to various state agencies in and outside Idaho. **Mr. Batt** took the opportunity to confirm that the Federal Alcohol and Tobacco Tax and Trade Bureau Rules do not restrict the size of containers. He provided data from surrounding states regarding wine container restrictions in each state. A copy of his comments is included with the minutes as Attachment A.

**Senator Lodge** asked how many small wineries have the ability to provide the 15 gallon kegs. **Mr. Batt** said there are several that are interested in having larger container sizes above the one gallon provision but not many have said that they would go to 15 gallon. Most of them would like to do five or seven gallon containers. **Senator Lodge** wanted to know if this will increase their ability to provide an Idaho product to Idaho restaurants. **Mr. Batt** answered yes, they are receiving requests at this time.

**MOTION:**

**Senator Lodge** moved to send **S 1025** the Senate floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**HCR 4**

**Chairman McKenzie** introduced Jason Hudson, Intern for Senator Werk, to present **HCR 4** commending Kristin Armstrong for her accomplishments at the 2012 Summer Olympics.

**Mr. Hudson** urged the Committee members to join with their fellow legislators in the House of Representatives to adopt **HCR 4** commending a long time Idahoan, Kristin Armstrong, for her athletic accomplishments culminating in her victory at the 2012 Summer Olympic Games in London; and, for her superior attitude, work ethic, focus and exemplary conduct which serve as an example and an inspiration to Idahoans, and to all Americans. **Mr. Hudson** outlined Ms. Armstrong's specific qualifications, adversities, and commitments in her efforts to reach her goals. His comments are included as part of the minutes as Attachment B.

**MOTION:**

**Senator Stennett** moved to send **HCR 4** to the Senate floor with a do pass recommendation. **Senator Lodge** seconded the motion.

**Senator Werk** stated that the presentation was great and he appreciated Mr. Hudson's effort.

**Senator Winder** echoed those comments. It made him relive some of the moments while watching her race on television. She is an amazing person both as an athlete and as a woman. It is an honor she deserves.

**Chairman McKenzie** added that after what American cycling has been through lately, she is definitely a bright star.

The motion carried by **voice vote**.

**ADJOURNED:**

**Chairman McKenzie** thanked the Committee and adjourned the meeting at 8:56 a.m.

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Senator McKenzie  
Chairman

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Twyla Melton  
Secretary