

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 11, 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) to order at 8:00 a.m. with a quorum present and called for a motion on the minutes of January 16, 2013.

**MOTION:** **Senator Fulcher** moved to accept the minutes of January 16, 2013. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**RS 21995** **Senator Jim Rice** explained that there is an inherent conflict of interest in Idaho statute when county prosecutors represent county elected officials. Instead of complaints about violations of state law going to the county prosecutor, they should go to the attorney general. The county prosecutors have participated in the construction of this legislation and approve of the change. The \$212,600 fiscal impact is for an additional deputy attorney general and one investigator.

This does not reflect on the good prosecutors; they are managing any conflicting personal interests appropriately. Once in awhile someone misbehaves and can cost the county a substantial amount of money.

**MOTION:** **Senator Fulcher** moved to send **RS 21995** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

**RS 21925C1** **Paul Jagosh**, Fraternal Order of the Police, stated that **RS 21925C1** deals with internet crimes against children and was drafted by a task force from the Attorney General's Office. The task force has been operational for about five years and was funded by a \$200,000 grant from the federal government. Currently, Idaho is doing virtually nothing to combat this problem. The task force discovered about 5000 instances of people trading in child pornography using children ranging from teens to infants. Eighty percent of those people are currently or, have previously, molested children.

The task force uses one full-time investigator and some part time investigators. Last year they did about 45 investigations. This legislation establishes an Internet Crimes Against Children Unit as an official function of the Attorney General's Office and sends a message that Idaho will not be a safe haven for people carrying on these activities.

There is no fiscal impact with this RS but there will be a trailer bill to fund the investigations.

**Senator Werk** questioned the fiscal note statement; it was confusing. **Mr. Jagosh** said that passing this bill is not going to automatically appropriate monies to this effort. This bill does not make it a mandatory funding vehicle. **Senator Werk** commented that if it is anticipated that staff will be added, we should be talking about the cost of that staff.

**Chairman McKenzie** said that was a valid concern. One of the reasons the fiscal note appears as it does, is that they are seeking a funding mechanism that does not come from the general fund and would be a steady source of funding. The Statement of Purpose needs to be changed to clarify that funding will not come from the general fund.

**Senator Werk** commented that it seems this should be in the Judiciary and Rules Committee. **Chairman McKenzie** acknowledge the possibility that it will go there after printing.

**MOTION:** **Senator Davis** moved to send **RS 21925C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** **Chairman McKenzie** passed the gavel to Senator Lodge. **Senator Lodge** announced that **RS 21729C1** will be presented by Chairman McKenzie.

**RS 21729C1** **Chairman McKenzie** stated that **RS 21729C1** comes at the recommendation of the Christian Legal Society and the Ethics and Public Policy Center. This language was initiated due to some issues between a religious based student group and one of our public universities. The religious group was being treated differently from other groups based upon the religious nature of the group. According to Chairman McKenzie's information, the university was out of line with what other universities across the country are doing and was inconsistent with U. S. Supreme Court and Ninth Circuit law on the way you can treat student groups. **Senator McKenzie** requested a printing. The problem could go away by just printing this RS. The inconsistencies could also be taken care of by a change in policy at the university level.

**MOTION:** **Senator Davis** made a motion to print **RS 21729C1**. **Senator Fulcher** seconded the motion.

**Senator Stennett** asked, if there is a law prohibiting these activities, why are we pursuing this? **Chairman McKenzie** explained that it is not a law, it is court precedent. In the Ninth Circuit, one student group cannot be treated differently from the way other organizations are treated. The policy in Idaho is in violation of that court precedent. There will probably be litigation if something is not put in statute requiring that they respect the first amendment rights of the group.

The motion carried by **voice vote**.

**PASSED THE GAVEL:** **Senator Lodge** returned the gavel to Chairman McKenzie.

**ADJOURNED:** **Chairman McKenzie** noted that the last item on the agenda has been pulled to discuss some possible amendments. The meeting was adjourned at 8:15 a.m.

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Senator McKenzie  
Chairman

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Twyla Melton  
Secretary