

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 27, 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 8:02 a.m. with a quorum present. He welcomed the Committee and introduced Representative Bateman and former Attorney General Dave Leroy to present **HCR 5**.

HCR 5 A Concurrent Resolution to commemorate the Idaho Territorial Sesquicentennial. **Representative Bateman** yielded time to former Lt. Governor, David Leroy.

Mr. Leroy reported that in 2009 a \$50,000 legislative appropriation funded the Lincoln bicentennial celebration; Lincoln was born in 1809 in Kentucky. There was \$250,000 in private matching donations. A book entitled "Lincoln Never Slept Here" was published and captured public imagination, especially in those other Lincoln states where we made an outrageous but defensible claim that Idaho, more than any other state, is related to Abraham Lincoln. A traveling exhibit was created during this time that took the Lincoln story, chronology and a selection of artifacts across the state and was seen by approximately 300,000 people.

At age 54, Lincoln signed the bill creating Idaho Territory making 2013 a sesquicentennial; the 150th anniversary of the creating of Idaho territory by Lincoln on March 4, 1863. It is little known that Idaho was a part of freeing the slaves and winning the civil war. Lincoln intended Idaho as a giant blocking maneuver where slavery would never be introduced into the Territory. When Idaho Territory was created it amounted to a mass of 310,000 square miles, from the Washington-Oregon border to the Dakotas, north to Canada and south to Utah. Idaho helped finance the civil war through their mining efforts of gold and silver for coinage to back treasury bills.

This resolution is an important part of kicking off the sesquicentennial celebration. The Idaho Historical Society has put together a no-cost celebration of branding and encouragement for every community to get out and host local events to recognize the significance of this celebration; even the reconstruction of the original capitol building in Lewiston scheduled for rededication on July 10, the approximate date when William Wallace, the first governor, picked Lewiston for the first capitol. This resolution is an important part of a planned program taking place on Monday.

Senator Hill expressed his appreciation and gratitude on behalf of the Committee to **Mr. Leroy** for his historical link in keeping President Lincoln and Idaho alive and vibrant to our community. **Mr. and Mrs. Leroy's** donation of a portrait of President Lincoln will grace the hall outside the Senate Auditorium for many years to come.

MOTION: **Senator Davis** moved to send **HCR 5** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**. **Senator Davis** will carry **HCR 5** on the Senate floor.

RS 22090

A Joint Resolution to amend the Idaho Constitution.

Senator Rice stated that currently, within the definition of the state militia, the language refers to able-bodied males between the ages of 18 to 45. The resolution would change the wording to able-bodied persons 18 and older. Many of the State's citizens are concerned with the national course of action banning certain types of firearms. The concept is the result of the Heller decision by the United States (US) Supreme Court relating to the Second Amendment. In a five to four majority decision, the court held that the right to keep and bear arms is an individual right belonging to each citizen of the US. The minority cited several opinions over many years that referred to it as a right belonging to state militias. There are decisions in the US Supreme Court that refer to, and are based on, whether particular types of weapons have a military purpose.

This legislation will allow the state of Idaho to protect the individual right and interpose the fact that the federal government does not have the right to disarm the militia of the several states and would allow Idaho to protect the Second Amendment.

Senator Werk asked if everyone over the age of 18 would be a member of the militia in Idaho. If the US Supreme Court decided that it was the militia, then would every person in Idaho 18 or older be allowed to bear arms? **Senator Rice** explained that under constitutional principles and under decisional law, every male 18 and older already does form part of the state militia. **Senator Werk** asked why would you limit this to 18 or older? **Senator Rice** answered that the US Supreme Court has recognized the age group of 18 or older.

Senator Stennett noted that the current language "shall be enrolled in the militia" is being changed to "to constitute." What directs the parameters of this change in definition? **Senator Rice** explained that the difference in the language recognizes the militia as it exists in the state constitution and founding principles rather than just looking at an enrollment statute that the federal government passed. The states defined who they would call up for the state militia rather than defining it for the general purposes of the Second Amendment. **Senator Stennett** asked for more clarity on the definition of the stated actual enrollment which suggests a call up to duty. **Senator Rice** explained that anytime you do a call-up for active duty for any kind of military force, you would have to go through a process of enrollment. The amendment recognizes that this moves from just a process for enrolling to recognizing the state militia for the Second Amendment in its traditional form.

MOTION: **Senator Fulcher** moved to print **RS 22090**. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

RS 21682

Relating to the State Lottery Commission to provide authority for operation and promotion of lottery games.

Jeff Anderson, Director, Idaho State Lottery Commission (Commission), stated the Commission is seeking authority to enter into agreements for the operation or promotion of joint lottery games with any foreign countries or combination of states. Current law allows the Commission to join in multi-jurisdictional games such as Powerball or Megamillions. When the Lottery was established it also included the ability to run gaming based on sound business principles. Over the last two and one half years the lottery industry has seen opportunities to consider offering draw games such as Powerball or Megamillions to include Canadian, United States and European jurisdictions.

RS 21682 only provides for consideration to join in these games if the decision was based on sound business principles. This does not expand gaming in Idaho, it simply offers the Commission the ability to consider additional opportunities.

Senator Hill stated that the current law gives the Commission specific authority to enter into certain types of commitments and contracts. There is a reason for the language in the legislation to give specific authority not general authority to do whatever the Commission liked. With this additional authority in **RS 21682**, is there anything that you cannot consider? **Mr. Anderson** stated that this bill deals specifically with draw games such as Powerball or Megamillions; it would not expand gaming or allow the Commission to do other play styles. The bill simply states that, right now, you can join a game with Canadian jurisdictions or lotteries but gives the Commission the authority to consider a world game if it became available. **Senator Hill** asked what types of jurisdictions are restricted with this addition. **Mr. Anderson** replied that they did not specifically name the United Kingdom or France. Any foreign country is included with this change.

MOTION: **Senator Davis** moved to return **RS 21682** to the sponsor. **Senator Fulcher** seconded the motion.

Senator Werk commented that this RS broadens the authority of the Commission to negotiate with Canada or a foreign country and assumes that the Commission would be judicious in their approach to any type of lottery draw games.

SUBSTITUTE MOTION: **Senator Werk** moved to print **RS 21682**. **Senator Stennett** seconded the motion.

Senator Werk said if the RS is printed the Committee could have a discussion on whether the authority might or might not be too broad for the Commission. **Senator Hill** spoke against the substitute motion saying that it would be ingenuous of the Committee to lead the sponsor to think that we would be in favor of expanding gaming for the purpose of producing greater jackpots.

The substitute motion failed by **voice vote**.

Chairman McKenzie restated the motion to return **RS 21682** to the sponsor. The motion carried by **voice vote**

RS 21618 Relating to Lottery Prizes to revise procedures.

Mr. Anderson stated that this legislation deals with lottery withholding and offsets for monies owed to the state for Health and Welfare or taxes. In fiscal year 2012, the Commission collected offsets for the state of \$35,444 for Health and Welfare and \$13,389 for taxes due to the Tax Commission. This bill will clarify the existing statutory procedure and will not change existing practice or procedure. The lack of clarity in code caused the Commission to be sued by a player who was surprised by the offset. They believe this clarity will be good public policy.

MOTION: **Senator Davis** moved to print **RS 21618**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 21623 Relating to Bingo and Raffles to allow recommended changes.

Mr. Anderson said this bill deals with charitable gaming in Idaho. There are a number of issues that was recommended by the Office of Performance: 1) Structure; 2) Bingo; and 3) Raffles.

Senator Davis pointed to page 3, subsection (9). The RS proposes to strikeout the language; Why was it put in and why is it now being struck? **Mr. Anderson** said he was not sure why (9) was placed in the legislation but it has been determined that the "Holiday Christmas Tree Fund-raisers" are auctions not raffles. The lottery has no authority over auctions. **Senator Werk** asked for clarification of the language on page 15, subsection (6). **Mr. Anderson** stated 67-7715 addresses vendors that supply bingo paper and electronic bingo machines to charitable gaming operators. This provides for a different set of rules when the sanctions could be on vendors to charitable gaming licensees.

MOTION: **Senator Winder** moved to print **RS 21623**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 22094 **Senator Fulcher** stated that **RS 22094** and **RS 22095** are unanimous consent requests to print from Senator Goedde, Chairman, the Education Committee.

MOTION: **Senator Fulcher** moved to send **RS 22094** and **RS 22095** to print. **Senator Hill** seconded the motion.

Senator Winder provided a history on these RS's stating that when former Senator Stegner was appointed to the University of Idaho position, he was in the middle of trying to resolve a problem with the funding for the Northwest Children's Home School in Lewiston. As a result of Senator Stegner's departure from the Senate, he asked **Senator Winder** to continue to help with the Children's Home. These two RS's have a longer term solution and he would like to get them printed and on to the Education Committee.

Chairman McKenzie declared a conflict of interest pursuant to Rule 39 (h) since he is on the Board of the Syringa House which is part of the Northwest Children's Home.

The motion carried by **voice vote**.

ADJOURNED: There being no further business, the meeting adjourned at 8:54 a.m.

Senator McKenzie
Chairman

Twyla Melton, Secretary
Assisted by Carol Deis