

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 10, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Winder, Lodge, Siddoway, and Werk

ABSENT/ EXCUSED: Senators Hill and Stennett

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. **Chairman McKenzie** welcomed the Committee to the first meeting of the session and introduced Aaron Sweet, who will be serving as the Committee's Page during the first half of this session and asked him to tell the Committee about his future plans. **Aaron** explained that he plans to continue his education at Northwest Nazarene University (NNU) to become a math teacher and that he has been asked to participated in the NNU cross country running program.

RS 22433 A concurrent resolution to recognize Judge Edward J. Lodge for his fifty years of service on the bench of state and federal courts was presented to the Committee by **Senator Davis**.

Senator Davis stated that Judge Lodge has been on the bench fifty years which is the longest serving judge in Idaho's history. This resolution has been prepared without the consent of the family, one of which serves on this body, so that Idaho and the Idaho Legislature can honor Judge Lodge for his service.

Senator Lodge referred to Rule 39(H) where there could be a possible conflict of interest. She added that, looking at the outstanding career of this person and knowing the sacrifices he has made to serve the citizens of the state of Idaho, she will be voting on this resolution.

MOTION: **Senator Werk** moved, seconded by **Senator Fulcher**, to send **RS 22433** to print. The motion carried by **voice vote**.

PENDING RULES REVIEW: IDAPA 11 - Idaho State Police-Idaho State Racing Commission presented by **Frank Lamb**, Executive Director, Idaho Racing Commission.

DOCKET NO. 11-0402-1301 **11.04.02 - Rules Governing Simulcasting as a result of a new statute, Section 54-2512A Idaho Code, authorizing historical horse race wagering effective July 2013.**

Mr. Lamb explained that this docket has been developed because of Idaho Code, § 54-2512A, which was passed during the 2013 session with an effective date of July 1, 2013 authorizing pari-mutual wagering on historical horse races. This statute allows the Idaho State Racing Commission (Commission) to promulgate rules pursuant to Chapter 52, Title 67, Idaho Code in order to implement legislative directives of the statute. **Mr. Lamb** is asking the Committee to approve these proposed rules. They have requested temporary rules because the statute went into effect before the negotiated rulemaking process could be completed. However,

industry stakeholders from around the state were invited to provide input as the rules were written prior to the temporary rules being adopted and that input was considered during the process. Those informal meetings seemed to meet the stakeholders' needs since the Commission did not receive any written comments or requests for meetings when the Notice of Rulemaking was sent out. In compiling these rules, the Commission made clear the required elements for historical horse racing which are access control for minors and types of equipment to be used. They also identified and included certain elements that required approval by the Commission. **Mr. Lamb** stated that he believed the Commission has done its due diligence and promulgated rules that will effectively enforce the statute that was approved by the legislature.

Senator Davis called attention to page 7, section 27, in the definition of the word "Totalisator" and page 9, section 048, the word "TOTALIZATOR": Should these two words be the same spelling? **Mr. Lamb** responded that they should – the "Z" should be an "s" in section 048. **Mr. Lamb** explained that this word is unique to their industry. He further explained that originally, wagering calculations were all done by hand then there were some automated devices called totalisators, followed by computers which were still called totalisators. These computers were programmed to receive information, calculate payoffs and generate reports.

Senator Davis referred to page 9, section 049.03, Approved Days and Hours. The local municipality sets days and hours of operation but those must be approved by the Commission. Can the Commission choose to change the hours and days that the municipalities set? **Mr. Lamb** stated that they can.

Senator Davis cited page 9, section 049.04, Cash or Cash Vouchers Only and asked if the statute contained the language "cash vouchers" or "cash". **Mr. Lamb** answered that it did not.

Chairman McKenzie raised a question on page 9, section 047. He stated his understanding about the pari-mutual system for live wagering and how it functioned. How does the pari-mutual system work on the historic races? **Mr. Lamb** said that it works the same as for any other pari-mutual event. All wagers are pooled and the number of winners depends on how many winning horses are picked. Every race has ten horses. There can't be a dead heat or photo finish, and there can't be a disqualification. Everyone participates in the same pool although they are not betting on the same races. **Mr. Lamb** referred back to the cash/cash voucher question to emphasize that the standard practice in the industry does not allow paying with credit cards.

Senator Siddoway called attention to the concern raised regarding gambling on credit when the bill was passed in 2013. He looked up and quoted the meaning of "voucher" as stated in Wikipedia. He then asked if there was a voucher, did it have to be purchased from the establishment? **Mr. Lamb** explained that a voucher can be purchased from a clerk or from a kiosk that accepts cash. That voucher is then put into a terminal in order to play. It is the same as simulcasting on live races. **Senator Siddoway** followed up: when those vouchers are purchased, no credit is extended – is it just cash – no credit cards or checks? **Mr. Lamb** stated it was just cash but noted that someone could, with the approval of management, use a check but that becomes an extended process. But definitely not a credit card.

Senator Davis pointed out that the rule only applies to the terminal which is used to place the wager that will only accept cash or a cash voucher. So there is a possibility that a cashier could sell a voucher with the use of a credit card. The prohibition in the rule only relates to the terminal. **Mr. Lamb** supposed that could be correct but it is a long standing policy of the industry not to accept credit cards for wagering in any fashion and this has been something they have never had to

address. Most facilities around the country have not taken credit cards. **Senator Davis** observed that the Committee/Legislature has the responsibility to establish statutes and rules in regard to pari-mutual betting and the industry practice is not reflected in this particular rule. That doesn't mean it isn't in the code somewhere but it isn't here. Experience teaches that others within the gaming industry have asked for permission to allow the use of credit cards in other gaming devices so today's reluctance to allow it can be tomorrow's willingness to allow it. **Mr. Lamb** emphasized that they do not want to authorize credit cards and any suggestions to make that clearer would be appreciated.

Being no further discussion, **Chairman McKenzie** asked Mr. Lamb to present the next docket.

**DOCKET NO.
11-0411-1301**

11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses.

Mr. Lamb explained that this became an issue when it was discovered that this rule which had been in the rule book for decades, was omitted when the rules were rewritten in 2008. This is a very important rule that is the backbone of live racing in the State. The rule basically says that when a horse tests positive for any prohibited substance, the horse is disqualified and any purse or awards will be returned by the owners. The purpose of the pending rule is to reinstate the original rule. A temporary rule was implemented for the balance of the 2013 racing season.

Senator Davis asked if this is being looked at as a temporary rule or a pending rule. **Mr. Lamb** said it should be a pending rule.

Chairman McKenzie announced that both dockets are before the Committee. The issue that **Senator Davis** brought forward may be one that is broader than what is specifically stated here and the director of the Commission may want to look at rules that apply both to historic and live pari-mutual racing that address their practices.

Senator Davis stated that he did not support the bill last year but it is the statute today. Rejecting the rule may not necessarily solve the problem. If Mr. Lamb will make a commitment to this Committee that we will see an administrative rule next year that cleans up the terminal issue, I think this member of the Committee will feel more comfortable about voting. **Mr. Lamb** made a commitment to respond to this issue for the next session. They are currently cleaning up some other items which occurred with the 2008 rewrite that the Committee will also be seeing next session.

Senator Siddoway asked what the ramifications would be if the rules were rejected. **Mr. Lamb** answered that historical racing would not be stopped, but it would limit the ability to enforce the statute.

MOTION:

Senator Fulcher moved, seconded by **Senator Lodge**, to accept **Docket No. 11-0402-1301** and **Docket No. 11-0411-1301**. Motion carried by **voice vote**.

ADJOURNED:

Chairman McKenzie complimented the Committee on the morning's work and announced that the Committee will not meet Monday or Wednesday next week but will continue business next Friday. Being no further business the meeting adjourned at 8:35 a.m.

Senator McKenzie
Chairman

Twyla Melton
Secretary